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MACAULAY'S SPEECHES ON COPYRIGHT AND LINCOLN'S ADDRESS AT COOPER UNION

TOGETHER WITH ABRIDGMENTS OF THE PARLIAMENTARY DEBATES OF 1841 AND 1842 ON COPYRIGHT, AND EXTRACTS FROM DOUGLAS'S COLUMBUS SPEECH

EDITED BY

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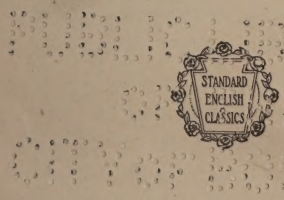

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PREFATORY NOTE

It is generally agreed that by the beginning of the fourth year in high school the minds of pupils have developed sufficiently so that an intelligent reading of substantial arguments is not only possible but desirable. Yet frequently in the past such reading has been of pieces requiring too long-continued attention on the part of students. Moreover, the method of reading has been to linger so long on petty details that the main drift of ideas has been neglected and the student has acquired a distaste for reading solid literature. In the present book the speeches are not very long. In fact, the two lucid speeches by Macaulay are easily read at a sitting, and Lincoln's crystal-clear speech is certainly not long. The editor has presented introductory and explanatory material to help the student to understand what the speakers accomplished in their day and generation by the speeches and what large important ideas were developed to audiences in England and America. The speeches are edited as containing subject matter that needs to be understood in a general way in order to be appreciated; yet when an allusion is entirely clear from the drift of the paragraph, the editor has not thought it necessary to burden the pupil's mind with useless information about the point alluded to by the speaker. The editor's aim in brief may be said to be to fit the speeches into the intellectual and social lives that the students are leading while the book is in their hands.

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MACAULAY'S SPEECHES ON COPYRIGHT

INTRODUCTION TO MACAULAY'S SPEECHES ON COPYRIGHT

MACAULAY'S FORTUNATE LIFE (1800–1859)

There was a great quartet of prose writers in the so-called Victorian Age of English literature. Thomas Babington Macaulay was one of them; Carlyle, Dickens, and Thackeray were the other three. These four men were alike in some respects, particularly in their extended popularity, but Macaulay was different from the other three in respect to revelation of himself in his books. Of Dickens you can get a fair idea from his novels, such as "David Copperfield." Thackeray, too, can be seen easily in several of his novels which give realistic pictures of his own personality and life. Carlyle's rugged personality is stamped on every page of his works. But about Macaulay you can learn almost nothing from his books; that is, you can find something about his intellectual traits — his thoroughness, his immense capacity for seizing and presenting facts, his assured certainty of expression — but from the very nature of his literary productions you can find little about the man himself, about his real personality. That is a reason why it is worth while to read a good biography of him. There is no better biography of Macaulay than that by his nephew, G. O. Trevelyan, which through letters and diaries and recollections of relatives and friends reveals the kind of man Macaulay was and tells fully the details of his fortunate life. In place of Trevelyan's admirable book, if that is not available, a short chronicle of important events in Macaulay's life, with special emphasis on

his work in Parliament, may serve as partial introduction to the reading of two of Macaulay's most effective parliamentary speeches.

Macaulay's family were Scotch in origin, though he was born at Rothley Temple, in Leicestershire, England. His father, Zachary Macaulay, gained considerable reputation as a reformer by his agitation for the abolition of slavery in the West Indies. Thomas Babington Macaulay lived in London as a boy. He showed remarkable memory and power over language, even when very young. At Trinity College, Cambridge, which he entered when eighteen years old, he took prizes for English verse and for a Latin declamation, was a prominent member of the Union Debating Society, and in 1824 was elected to a fellowship.

At the age of twenty-six he was admitted to the bar, but did not care for law practice, preferring literary work. His poems — "Ivry," "The Spanish Armada," and "Naseby" — and his essays published in *Knight's Quarterly Magazine* and in the *Edinburgh Review* were considered by his contemporaries the productions of an unusually brilliant young man. For thirty years he went on writing essays, which became increasingly popular, and sometimes he wrote additional poems. Some of the best known of these essays are those on Milton, Addison, Clive, and Hastings.

In 1830 he entered Parliament. His success as a member of the House was immediate and emphatic. His speeches in favor of the bill for the removal of Jewish disabilities and in favor of the Reform Bill for the more equitable distribution of membership in the House according to the population and wealth of sections of the country showed his solid and substantial qualities as an orator. At the close of his Reform Bill speech, the Speaker of the House sent for him and said that in all his prolonged experience he had never seen the House in such a state of excitement. Everybody complimented the young

member. About this time he began a letter to his sister Hannah, as follows:

To Hannah M. Macaulay

London, September 13, 1831

My dear Sister, —

I am in high spirits at the thought of seeing you all in London, and being again one of a family, and of a family which I love so much. It is well that one has something to love in private life; for the aspect of public affairs is very menacing — fearful, I think, beyond what people in general imagine. Three weeks, however, will probably settle the whole, and bring to an issue the question, Reform or Revolution. One or the other I am certain that we must and shall have . . .

Ever yours,
T. B. M.

After three intensely industrious years in Parliament he gave up his seat and was engaged thereafter for a period of five years in working out a penal code and an educational system for India as a resident legal adviser to the Supreme Council. On his return to England from India, rich from the big salary he had received, he was reëlected to Parliament, this time as a member representing Edinburgh. In 1839 he joined the Cabinet, as Secretary at War. He continued his literary efforts meanwhile, publishing among other things "The Lays of Ancient Rome." During his active political life he liked to retire to his library and work on his "History of England from the Accession of James II." No person who lived so much in his library ever had so great an effect on legislation as had Thomas B. Macaulay. Two of the speeches which had extraordinary effect in the House while Macaulay's powers as a speaker were at their best were his two copyright speeches, printed elsewhere in this volume.

Though he was defeated for Parliament at a general election in 1847 and considered this defeat the end of his labor in the House, he was triumphantly reëlected in 1852 without any personal canvass. However, after his return to Parliament this time

he made few speeches, for he was engrossed in his monumental history of England. He retired from political life in 1856.

The next year he was made Baron Macaulay of Rothley in recognition of his services to his own country in Parliament, to India by his codification of the laws and his arrangement of an educational system, and to the world by the publication of his poems, his history, and his essays. He died in 1859. Though he never married, he had always been devoted to his sister and the other members of his family, and he was beloved by a wide circle of distinguished friends, and admired and respected by all English-speaking people. No wonder he himself toward the end of his days felt like speaking of his life as one truly marked by good fortune.

THE SIGNIFICANCE, MEANING, AND HISTORY OF COPYRIGHT

The question of copyright might seem to school or college boys and girls a little remote from their own interests. Yet really copyright is a matter which practically concerns all persons who buy books. The cost of a book is made up of the actual outlay for the setting up of the book in type, the making of the plates, the procuring of book-paper, the printing and binding of the book, the expenses of selling (advertising, office expenses, etc.), the amount paid to the author outright or in royalties, and the profit of the publisher. Mr. George Haven Putnam in a fair-minded book published in 1897, entitled "Authors and Publishers," asserts that the average return coming to authors from their royalties represents considerably more than half the net profits.

The amount paid to the author, therefore, makes an appreciable difference in the cost of the book. Were it not for copyright, the author might receive nothing. In an article on book-publishing and its present tendencies, in *The Atlantic Monthly*, April, 1913, Mr. George P. Brett, president of a

New York publishing house, says that the successful experiments in the publishing of cheap editions of books in Germany and France are usually with those books which are out of copyright and consequently pay no royalties to authors, or with those books for which a low rate of royalty can be arranged.

Several publishers in the United States have already brought out, like the German and French publishers referred to by Mr. Brett, a considerable number of series of cheap and attractive editions of staple books the copyrights of which have expired. Practically all the books thus far named in college entrance lists are books which have outlived their copyright period and are still considered the best. Some New York publishers who until recently have made a business of publishing books the copyrights of which have run out have found it necessary to change their kind of business, owing to the recent extension of the copyright period in the United States. Such publishers are now taking up the work of publishing cheaper editions of current books with the owners of whose copyrights arrangements can be made for the payment of insignificant royalties. It thus becomes clear that the subject of copyright really concerns almost every one who has had a school or college education; since as a person becomes trained in the schools he is likely to acquire the habit of buying long-established books or books fresh from the minds of their authors, and since copyright has an appreciable influence on the cost of books.

Again, the subject of copyright as treated by Macaulay in particular is interesting because in his treatment of the subject Macaulay ranges through the greatest authors in English and Continental literature and tells especially many important and entertaining facts about English authors. With the copyright speeches of Macaulay as a basis it would be possible to make a review of English literature since Shakespeare's time.

From what has been said thus far, perhaps some idea can be obtained as to what copyright is. Copyright is the right given

by law to writers to have their literary productions printed and sold for a limited time without fear that any unauthorized person will print and sell the same thing; or if any person not authorized should print the work and offer it for sale, copyright gives the author or the person to whom he disposes of his copyright legal redress. Here is a dictionary definition of copyright:

> Exclusive right given by law for term of years to author, designer, etc., or his assignee to print, publish, or sell copies of his original work. — The Concise Oxford Dictionary.

Just what the nature of the right is and the reasons why laws regulating the right should be made, are matters that have been long in dispute. One view is that the right should be no exception to the general laws of trade and that it should be strictly limited in duration. Another view is that a man's literary work is his property as much as his house or his money; that this literary property should be owned absolutely, without limitation in time, until sold or otherwise disposed of. From almost any point of view, as Macaulay himself says in the early part of one of his copyright speeches, copyright appears to be a kind of monopoly, based on the principle that a man should be protected in the fruits of his work.

The history of the steps in the development of copyright in England from the time of the invention of printing to the present can be told briefly. After the invention of printing, the king or the universities granted licenses restricting in a measure the unlimited reproduction of literary works. A licensing act in 1662 prohibited the printing of any work without the consent of the owner. Under this act Milton obtained a license for "Paradise Lost." In 1667 he signed an agreement with Samuel Simmons for the copyright, and in 1680 Milton's widow settled all claims upon Simmons for £8. Simmons thus became owner of the copyright, which was then understood to be perpetual. See Macaulay's reference on page 28 to the operation of this act.

This act expired in 1679, and was not renewed. The first definite statute on the subject in England set the period for the possession of the exclusive right of publication of a literary work at fourteen years (Statute of 1709). At the end of the fourteen years the sole right of printing or disposing of copies could be obtained for another fourteen years if the author were alive at the end of the first fourteen. About a hundred years later an act of Parliament substituted for the two periods of fourteen years a single term of twenty-eight years from the date of publication, and added the residue of his natural life if the author were alive at the expiration of the twenty-eight-year period. This was the law at the time when Macaulay spoke on the subject in the House of Commons in 1841.

THE PARLIAMENTARY DEBATES OF 1841 AND 1842 ON COPYRIGHT

In the London *Times* for February 6, 1841, there may be found this brief editorial summary of part of the proceedings in the House of Commons for the day before:

> Mr. Sergeant Talfourd then moved the second reading of the Copyright Bill. Mr. Macaulay made a long and clever speech against it, and the second reading was defeated by a majority of 7.

This ended further consideration of the bill proposed by the eminent lawyer, Talfourd. Macaulay's speech was evidently effective in defeating this measure, the object of which was to extend the period of copyright in a book to sixty years, reckoned from the death of the writer.

A short summary of what Mr. Sergeant Talfourd said in moving the second reading of his bill will make clear what arguments there were for its passage. Talfourd said that he would not occupy the attention of the House for any length of time on the present occasion, as the subject had been already fully

discussed. He would only state, with respect to the objections which were made to the term of sixty years fixed on by the bill, that he regarded that term as an amicable compromise between the extreme justice of a perpetual copyright and the injustice of the present term of twenty-eight years. But those who thought sixty years too long would not surely object to fifty years, which was the term selected in the bill introduced into the French Chamber of Deputies by the Minister of Public Instruction, who declared his conviction that perpetual copyright would be the most just. Talfourd asked those who were favorable to even this term of fifty years to vote for the second reading. Were not authors as fully entitled to the profits accruing from the creations of their own minds as those engaged in the pursuits of commerce and agriculture to the proceeds of their goods and land? He would not pursue an argument of which the justice was so manifest; he would only add that with one or two exceptions the publishers were satisfied with the provisions of the bill that he had introduced. With respect to the public, he had always contended that cheapness was not more desirable in the productions of literary men than it was in the assistance of lawyers and medical men. The public could not have literary works of first-rate talent without paying well for them. It was said, by those who supported the theory that monopolies raised prices, that books would be made dearer by extending the term of copyright; but that increase of price was imperatively demanded as an act of justice to the author and his family. He begged to move that the bill be read a second time.

Then came Macaulay's speech against the bill. The speech was frequently interrupted by cries of "Hear, hear," by cheers, and at the end was received with "loud cheers." In closing his speech, Macaulay said that he regretfully moved that the bill be read a second time this day six months, that is, never. His motion was the technical one to make when a member wished to table a measure indefinitely. Those who applauded

evidently intended to vote against any further consideration of the bill introduced by Talfourd.

After Macaulay had spoken, Sir R. H. Inglis and Mr. Sergeant Talfourd replied to his arguments. Talfourd said that he trusted that the petitions which had been presented in favor of his bill by such men as Wordsworth, Rogers, Campbell, Coleridge, and the son of Sir Walter Scott would outweigh the eloquence of the right honorable gentleman (Macaulay), and would induce the House to consent to his bill.

The House then divided, that is, those favorable to the bill passed into one lobby of the House and those opposed to the bill passed into another lobby, as is the custom of taking votes in Parliament. The result was:

For the second reading	38
Against the second reading	45
Majority against further consideration of the bill .	7

Thus Macaulay was successful in carrying his point the first time that he spoke in the House of Commons on the subject of copyright.

The second time he was even more successful, for he made a proposition which became the basis for the copyright law as it was in the United Kingdom from the year 1842 up to the end of 1911. Lord Mahon, a member of Parliament, was disappointed in 1841 that the measure proposed by Talfourd had been defeated by Macaulay's speech, and early in the next year he proposed a new Copyright Bill. On moving the second reading of his bill on March 16, 1842, he suggested that the discussion of the principle of the measure be postponed until the House should reach the third clause of the bill when in committee. Mr. Macaulay concurred in the postponement, saying, as reported in Hansard's "Parliamentary Debates," that the preceding year he would not have divided the House on the second reading of Mr. Sergeant Talfourd's bill if language had not been used

during the debate which rendered the step, as he thought, imperative upon him. The measure now proposed by Viscount Mahon he considered a great improvement on that of last year, though there were still a great many defects of detail which he would wish to see altered. Upon the whole, however, he was not without hopes that the House might be enabled to arrive at a satisfactory measure, and he hoped that the discussion of the principle of the measure would be postponed, as Lord Mahon requested. The bill was then read a second time, with the understanding that it was to be committed to a committee of the whole House for full debate on the provisions of its third clause.

On April 6, 1842, the House went into committee for the consideration of Lord Mahon's bill, with Mr. Thomas Greene acting as chairman. A report of the proceedings, compiled from the account in the London *Times* for April 7 and from the book, "Parliamentary Debates," published by Hansard, follows:

The House of Commons last night went into committee on the Copyright Bill, the third section whereof proposed that the copyright of literary works should in future continue for the author's life, and twenty-five years further. Lord Mahon, the originator of the bill, began the discussion by explaining the general scope of the measure, of which the third clause was the leading feature. He said that in venturing to bring before the House the claims of men of letters he deplored the absence of their distinguished advocate, Mr. Sergeant Talfourd. No party feeling could prevent him from regretting that the House was no longer adorned by the character and talents of one who, though he had left behind him a majority of political opponents, had not left behind him a single personal enemy. It was at the request and with the sanction of that estimable and eloquent gentleman that he had undertaken the task of bringing forward this measure for the extension of the period of copyright. He remarked upon the change in the position of literary men produced by the cessation of that patronage which they were wont to receive from the great until the time of Sir Robert Walpole; and sketched the progress of legislation on this subject from the reign of Anne to the present time. The proposed enactment might, to a certain extent, keep up the price of books, but the additional sixpence in cost would be not unwillingly paid. Authors would be induced

by the extension of the term to look less to present and ephemeral fame and more to the permanent taste and judgment of the country. It was for the national honor and interest to evince a sympathy with literature. Not only authors, but the three classes connected with them — the publishers, the printers, and the booksellers — were all favorable to the present bill, though three of the four classes had opposed the bill of last year.

Mr. Macaulay, concurring in the objects of Lord Mahon, yet thought they would be better accomplished by protecting each copyright for the term of the life of the author or of forty-two years, whichsoever of those terms should be of the longest duration. This extension, which gave fourteen years in addition to the present period of twenty-eight, would best guard against the uncertainty of human life and most nearly equalize the protection to the earlier and to the later productions of the same writer. He illustrated this view by a multitude of striking examples, by which he showed that Lord Mahon's measure gave the longest copyright to the crude productions of youth, and the shortest to the matured works of middle and later life.

Sir R. H. Inglis then said that no one could be expected to follow so learned and eloquent a speech as the one that the House had just listened to. He said that during his whole life he had never known any person but one able to follow a speech so full of research and adorned with such an array of names of those eminent in literature. Yet he wished to urge against Mr. Macaulay's plan that it would take away from an aged author, dying forty-two years after his publication of some valuable work, the consolation of being able to provide for his family by a posthumous copyright. He mentioned various instances in which eminent works of our own contemporaries would have derived less protection from Mr. Macaulay's term than from Lord Mahon's.

Mr. Wakley saw no occasion to make any change at all in the existing law. In a humorous, though desultory, speech he entertained the House for some time.

Mr. Milnes denied that prices are materially augmented by copyright, and instanced high prices of various books in which no copyright subsists.

The first and second sections of Lord Mahon's bill were then passed.

The third section was read, partially as follows:

And be it enacted that the copyright in every book which shall, after the passing of this act, be published in the lifetime of its author, shall endure for the natural life of such author, and for the further term of *twenty-five years*, commencing at the time of his death, and shall be the property of such author and his assigns: provided always that in no case shall the whole term be less than *twenty-eight years*. . . .

Mr. Macaulay then proposed the amendment already referred to by him, that the words "and for the further term of twenty-five years commencing at the time of his death" be stricken out and that in place of the words "twenty-eight years" the words "forty-two years" be substituted.

After Sir Robert Peel had said that he believed seven years should be substituted for twenty-five years, but that he favored Mr. Macaulay's amendment giving at least forty-two years, Lord Mahon saw that the majority would probably favor Mr. Macaulay's proposal, and so he took up Sir Robert Peel's suggestion that the period of copyright be for the further term of seven years, commencing at the time of the author's death.

As a result of the discussion, the clause was amended as follows:

The words seven years, as proposed by Sir Robert Peel and Lord Mahon, were substituted for the words twenty-five years; and the words forty-two years were substituted for the words twenty-eight years.

Thus the clause, as finally adopted by the House, purely on the merits of the debate and without political party feeling entering at all into the voting, provided, that,

1.) Copyright should last for the natural life of an author and for a further term of seven years commencing at the time of his death, and

2.) Copyright should in no case last for a period of less than forty-two years after publication.

After the third clause had been thus amended, several other sections of the bill were passed, whereupon the chairman of the committee reported progress on the bill.

From the foregoing account it is apparent that again in speaking on copyright Macaulay won a conspicuous victory. To be sure, the House, sitting as a committee of the whole, made a slight change in his plan, in order to meet an argument advanced by Sir R. H. Inglis and then taken up by Sir Robert Peel and Lord Mahon, but in general it was Macaulay's constructive plan which triumphed.

It seems remarkable that Macaulay could in this way hold back the clock of legislation for many years. His plan remained up to 1911 the copyright statute in England, though his plan was extended somewhat in the interval by judicial interpretation as specific cases for dispute arose. In 1911 Parliament passed a bill which accepted for the period of copyright very nearly the length of time which Talfourd advocated in 1841 and more than the length of time proposed by Mahon in 1842 when Macaulay succeeded in checking the extension. The Copyright Act which Parliament passed December 16, 1911, contained several radically new features. The first to be noted is that the term, or period, of copyright has been greatly extended. It is now the life of the author and *a period of fifty years after his death*, subject to certain limitations. This, it will be recalled, is only ten years less than the period advocated by Mr. Sergeant Talfourd in 1841 (see page 9). Another new feature of this latest copyright law for the United Kingdom aims to meet objections that had been made to the lengthening of the copyright period. Now an author who is the first owner of a copyright may not, except by will, assign his right or grant an interest in it for a period extending more than twenty-five years from his death. This new copyright law changes a plan which Macaulay urged with such cogency as to keep it operative for nearly seventy years after his speech in the House of Commons in 1842.

USEFUL BOOKS FOR REFERENCE

1. The Life and Letters of Lord Macaulay, by G. Otto Trevelyan. Harper & Brothers, 1876. Two volumes in one.

2. Macaulay, by J. Cotter Morison. English Men of Letters Series. Harper & Brothers, 1883. An excellent condensed biography of 183 pages.

3. The Law of Copyright, by George Stuart Robertson. Clarendon Press, Oxford, 1912. A treatise on the law of copyright as it became established in the United Kingdom by the Copyright Act of December 16, 1911.

4. The Question of Copyright, by George Haven Putnam. G. P. Putnam's Sons. This book includes a digest of the copyright laws of the world up to March, 1896.

5. The Law of Copyright, by E. J. MacGillivray. E. P. Dutton & Co., 1902. A treatise on the law of copyright in the United Kingdom and the Dominions of the Crown, and in the United States of America. This book contains information about international copyright, what books are protected by copyright, the owner of the copyright in books, infringement of copyright in books, publishing and printing agreements, besides chapters on copyright in engravings, sculpture, paintings, photographs, etc.

6. Playright and Copyright in All Countries, by William M. Colles and Harold Hardy. The Macmillan Company, London, 1906. A handy, popular compilation showing how to protect a play or a book throughout the world.

7. Copyright Enactments, 1783–1900, compiled by Thorvald Solberg, Register of Copyrights, Washington. Government Printing Office, 1900. Those who wish condensed information regarding the history of copyright in the United States should write to Washington, D.C., for this invaluable pamphlet of 83 pages. The original period recommended by Congress in 1783 for adoption by the several states was fourteen years, with a possible addition of another fourteen years; but the first period was made twenty-eight years by an act of Congress in 1831, the second period remaining at fourteen years.

8. Files of the London *Times* for 1841 and 1842.

9. Parliamentary Debates, published by Thomas Curson Hansard. The volumes for 1841 and 1842 contain full reports of the debates in the House of Commons on copyright.

10. Speeches by Thomas B. Macaulay, published by Hurst & Co., New York. Two volumes in one. A cheap and handy volume of much use to the student of Macaulay's oratory.

THE FIRST SPEECH ON COPYRIGHT, FEBRUARY 5, 1841

Though, Sir, it is in some sense agreeable to approach a subject with which political animosities have nothing to do, I offer myself to your notice with some reluctance. It is painful to me to take a course which may possibly be misunderstood or misrepresented as unfriendly to the interests of literature and literary men. It is painful to me, I will add, to oppose my honorable and learned friend on a question which he has taken up from the purest motives, and which he regards with a parental interest. These feelings have hitherto kept me silent when the law of copyright has been under discussion. But as I am, on full consideration, satisfied that the measure before us will, if adopted, inflict grievous injury on the public, without conferring any compensating advantage on men of letters, I think it my duty to avow that opinion and to defend it.

The first thing to be done, Sir, is to settle on what principles the question is to be argued. Are we free to legislate for the public good, or are we not? Is this a question of expediency, or is it a question of right? Many of those who have written and petitioned against the existing state of things treat the question as one of right. The law of nature, according to them, gives to every man a sacred and indefeasible property in his own ideas, in the fruits of his own reason and imagination. The legislature has indeed the power to take away this property, just as it has the power to pass an act of attainder for cutting off an innocent man's head without a trial. But, as such an act of attainder would be legal murder, so would an act invading the right of an author to his copy be, according to these gentlemen, legal robbery.

Now, Sir, if this be so, let justice be done, cost what it may. I am not prepared, like my honorable and learned friend, to agree to a compromise between right and expediency, and to commit an injustice for the public convenience. But I must say, that his theory soars far beyond the reach of my faculties. It is not necessary to go, on the present occasion, into a metaphysical inquiry about the origin of the right of property; and certainly nothing but the strongest necessity would lead me to discuss a subject so likely to be distasteful to the House. I agree, I own, with Paley in thinking that property is the creature of the law, and that the law which creates property can be defended only on this ground, that it is a law beneficial to mankind. But it is unnecessary to debate that point. For, even if I believed in a natural right of property, independent of utility and anterior to legislation, I should still deny that this right could survive the original proprietor. Few, I apprehend, even of those who have studied in the most mystical and sentimental schools of moral philosophy, will be disposed to maintain that there is a natural law of succession older and of higher authority than any human code. If there be, it is quite certain that we have abuses to reform much more serious than any connected with the question of copyright. For this natural law can be only one; and the modes of succession in the Queen's dominions are twenty. To go no further than England, land generally descends to the eldest son. In Kent the sons share and share alike. In many districts the youngest takes the whole. Formerly a portion of a man's personal property was secured to his family; and it was only of the residue that he could dispose by will. Now he can dispose of the whole by will: but you limited his power, a few years ago, by enacting that the will should not be valid unless there were two witnesses. If a man dies intestate, his personal property generally goes according to the statute of distributions; but there are local customs which modify that statute. Now which of all these systems is

conformed to the eternal standard of right? Is it primogeniture, or gavelkind, or borough English? Are wills *jure divino?* Are the two witnesses *jure divino?* Might not the *pars rationabilis* of our old law have a fair claim to be regarded as of celestial institution? Was the statute of distributions enacted in Heaven long before it was adopted by Parliament? Or is it to Custom of York, or to Custom of London, that this preëminence belongs? Surely, Sir, even those who hold that there is a natural right of property must admit that rules prescribing the manner in which the effects of deceased persons shall be distributed are purely arbitrary, and originate altogether in the will of the legislature. If so, Sir, there is no controversy between my honorable and learned friend and myself as to the principles on which this question is to be argued. For the existing law gives an author copyright during his natural life; nor do I propose to invade that privilege, which I should, on the contrary, be prepared to defend strenuously against any assailant. The only point in issue between us is, how long after an author's death the state shall recognize a copyright in his representatives and assigns; and it can, I think, hardly be disputed by any rational man that this is a point which the legislature is free to determine in the way which may appear to be most conducive to the general good.

We may now, therefore, I think, descend from these high regions, where we are in danger of being lost in the clouds, to firm ground and clear light. Let us look at this question like legislators, and after fairly balancing conveniences and inconveniences, pronounce between the existing law of copyright, and the law now proposed to us. The question of copyright, Sir, like most questions of civil prudence, is neither black nor white, but gray. The system of copyright has great advantages and great disadvantages; and it is our business to ascertain what these are, and then to make an arrangement under which the advantages may be as far as possible secured, and the

disadvantages as far as possible excluded. The charge which I bring against my honorable and learned friend's bill is this, that it leaves the advantages nearly what they are at present, and increases the disadvantages at least fourfold.

The advantages arising from a system of copyright are obvious. It is desirable that we should have a supply of good books; we cannot have such a supply unless men of letters are liberally remunerated: and the least objectionable way of remunerating them is by means of copyright. You cannot depend for literary instruction and amusement on the leisure of men occupied in the pursuits of active life. Such men may occasionally produce compositions of great merit. But you must not look to such men for works which require deep meditation and long research. Works of that kind you can expect only from persons who make literature the business of their lives. Of these persons few will be found among the rich and the noble. The rich and the noble are not impelled to intellectual exertion by necessity. They may be impelled to intellectual exertion by the desire of distinguishing themselves, or by the desire of benefiting the community. But it is generally within these walls that they seek to signalize themselves and to serve their fellow-creatures. Both their ambition and their public spirit, in a country like this, naturally take a political turn. It is then on men whose profession is literature, and whose private means are not ample, that you must rely for a supply of valuable books. Such men must be remunerated for their literary labor. And there are only two ways in which they can be remunerated. One of those ways is patronage; the other is copyright.

There have been times in which men of letters looked, not to the public, but to the government, or to a few great men, for the reward of their exertions. It was thus in the time of Mæcenas and Pollio at Rome, of the Medici at Florence, of Louis the Fourteenth in France, of Lord Halifax and Lord Oxford in this country. Now, Sir, I well know that there are

cases in which it is fit and graceful, nay, in which it is a sacred duty to reward the merits or to relieve the distresses of men of genius by the exercise of this species of liberality. But these cases are exceptions. I can conceive no system more fatal to the integrity and independence of literary men than one under which they should be taught to look for their daily bread to the favor of ministers and nobles. I can conceive no system more certain to turn those minds which are formed by nature to be the blessings and ornaments of our species into public scandals and pests.

We have, then, only one resource left. We must betake ourselves to copyright, be the inconveniences of copyright what they may. Those inconveniences, in truth, are neither few nor small. Copyright is monopoly, and produces all the effects which the general voice of mankind attributes to monopoly. My honorable and learned friend talks very contemptuously of those who are led away by the theory that monopoly makes things dear. That monopoly makes things dear is certainly a theory, as all the great truths which have been established by the experience of all ages and nations, and which are taken for granted in all reasonings, may be said to be theories. It is a theory in the same sense in which it is a theory that day and night follow each other, that lead is heavier than water, that bread nourishes, that arsenic poisons, that alcohol intoxicates. If, as my honorable and learned friend seems to think, the whole world is in the wrong on this point, if the real effect of monopoly is to make articles good and cheap, why does he stop short in his career of change? Why does he limit the operation of so salutary a principle to sixty years? Why does he consent to anything short of a perpetuity? He told us that in consenting to anything short of a perpetuity he was making a compromise between extreme right and expediency. But if his opinion about monopoly be correct, extreme right and expediency would coincide. Or rather, why should we not restore

the monopoly of the East India trade to the East India Company? Why should we not revive all those old monopolies which, in Elizabeth's reign, galled our fathers so severely that, maddened by intolerable wrong, they opposed to their sovereign a resistance before which her haughty spirit quailed for the first and for the last time? Was it the cheapness and excellence of commodities that then so violently stirred the indignation of the English people? I believe, Sir, that I may safely take it for granted that the effect of monopoly generally is to make articles scarce, to make them dear, and to make them bad. And I may with equal safety challenge my honorable friend to find out any distinction between copyright and other privileges of the same kind; any reason why a monopoly of books should produce an effect directly the reverse of that which was produced by the East India Company's monopoly of tea, or by Lord Essex's monopoly of sweet wines. Thus, then, stands the case. It is good that authors should be remunerated; and the least exceptionable way of remunerating them is by a monopoly. Yet monopoly is an evil. For the sake of the good we must submit to the evil; but the evil ought not to last a day longer than is necessary for the purpose of securing the good.

Now, I will not affirm that the existing law is perfect, that it exactly hits the point at which the monopoly ought to cease; but this I confidently say, that the existing law is very much nearer that point than the law proposed by my honorable and learned friend. For consider this; the evil effects of the monopoly are proportioned to the length of its duration. But the good effects for the sake of which we bear with the evil effects are by no means proportioned to the length of its duration. A monopoly of sixty years produces twice as much evil as a monopoly of thirty years, and thrice as much evil as a monopoly of twenty years. But it is by no means the fact that a posthumous monopoly of sixty years gives to an author thrice as much pleasure and thrice as strong a motive as a posthumous

monopoly of twenty years. On the contrary, the difference is so small as to be hardly perceptible. We all know how faintly we are affected by the prospect of very distant advantages, even when they are advantages which we may reasonably hope that we shall ourselves enjoy. But an advantage that is to be enjoyed more than half a century after we are dead, by somebody, we know not by whom, perhaps by somebody unborn, by somebody utterly unconnected with us, is really no motive at all to action. It is very probable that in the course of some generations land in the unexplored and unmapped heart of the Australasian continent will be very valuable. But there is none of us who would lay down five pounds for a whole province in the heart of the Australasian continent. We know, that neither we, nor anybody for whom we care, will ever receive a farthing of rent from such a province. And a man is very little moved by the thought that in the year 2000 or 2100, somebody who claims through him will employ more shepherds than Prince Esterhazy, and will have the finest house and gallery of pictures at Victoria or Sydney. Now, this is the sort of boon which my honorable and learned friend holds out to authors. Considered as a boon to them, it is a mere nullity; but considered as an impost on the public, it is no nullity, but a very serious and pernicious reality. I will take an example. Dr. Johnson died fifty-six years ago. If the law were what my honorable and learned friend wishes to make it, somebody would now have the monopoly of Dr. Johnson's works. Who that somebody would be it is impossible to say; but we may venture to guess. I guess, then, that it would have been some bookseller, who was the assign of another bookseller, who was the grandson of a third bookseller, who had bought the copyright from Black Frank, the doctor's servant and residuary legatee, in 1785 or 1786. Now, would the knowledge that this copyright would exist in 1841 have been a source of gratification to Johnson? Would it have stimulated his exertions? Would it have once

drawn him out of his bed before noon? Would it have once cheered him under a fit of the spleen? Would it have induced him to give us one more allegory, one more life of a poet, one more imitation of Juvenal? I firmly believe not. I firmly believe that a hundred years ago, when he was writing our debates for the *Gentleman's Magazine*, he would very much rather have had twopence to buy a plate of shin of beef at a cook's shop underground. Considered as a reward to him, the difference between a twenty years' and sixty years' term of posthumous copyright would have been nothing or next to nothing. But is the difference nothing to us? I can buy *Rasselas* for sixpence; I might have had to give five shillings for it. I can buy the Dictionary, the entire genuine Dictionary, for two guineas, perhaps for less; I might have had to give five or six guineas for it. Do I grudge this to a man like Dr. Johnson? Not at all. Show me that the prospect of this boon roused him to any vigorous effort, or sustained his spirits under depressing circumstances, and I am quite willing to pay the price of such an object, heavy as that price is. But what I do complain of is that my circumstances are to be worse, and Johnson's none the better; that I am to give five pounds for what to him was not worth a farthing.

The principle of copyright is this. It is a tax on readers for the purpose of giving a bounty to writers. The tax is an exceedingly bad one; it is a tax on one of the most innocent and most salutary of human pleasures; and never let us forget, that a tax on innocent pleasures is a premium on vicious pleasures. I admit, however, the necessity of giving a bounty to genius and learning. In order to give such a bounty, I willingly submit even to this severe and burdensome tax. Nay, I am ready to increase the tax, if it can be shown that by so doing I should proportionally increase the bounty. My complaint is, that my honorable and learned friend doubles, triples, quadruples, the tax, and makes scarcely any perceptible addition

to the bounty. Why, Sir, what is the additional amount of taxation which would have been levied on the public for Dr. Johnson's works alone, if my honorable and learned friend's bill had been the law of the land? I have not data sufficient to form an opinion. But I am confident that the taxation on his dictionary alone would have amounted to many thousands of pounds. In reckoning the whole additional sum which the holders of his copyrights would have taken out of the pockets of the public during the last half century at twenty thousand pounds, I feel satisfied that I very greatly underrate it. Now, I again say that I think it but fair that we should pay twenty thousand pounds in consideration of twenty thousand pounds' worth of pleasure and encouragement received by Dr. Johnson. But I think it very hard that we should pay twenty thousand pounds for what he would not have valued at five shillings.

My honorable and learned friend dwells on the claims of the posterity of great writers. Undoubtedly, Sir, it would be very pleasing to see a descendant of Shakespeare living in opulence on the fruits of his great ancestor's genius. A house maintained in splendor by such a patrimony would be a more interesting and striking object than Blenheim is to us, or than Strathfieldsaye will be to our children. But, unhappily, it is scarcely possible that, under any system, such a thing can come to pass. My honorable and learned friend does not propose that copyright shall descend to the eldest son, or shall be bound up by irrevocable entail. It is to be merely personal property. It is therefore highly improbable that it will descend during sixty years or half that term from parent to child. The chance is that more people than one will have an interest in it. They will in all probability sell it and divide the proceeds. The price which a bookseller will give for it will bear no proportion to the sum which he will afterwards draw from the public, if his speculation proves successful. He will give little, if anything, more for a term of sixty years than for a term of thirty or five and

twenty. The present value of a distant advantage is always small; but when there is great room to doubt whether a distant advantage will be any advantage at all, the present value sinks to almost nothing. Such is the inconstancy of the public taste that no sensible man will venture to pronounce, with confidence, what the sale of any book published in our days will be in the years between 1890 and 1900. The whole fashion of thinking and writing has often undergone a change in a much shorter period than that to which my honorable and learned friend would extend posthumous copyright. What would have been considered the best literary property in the earlier part of Charles the Second's reign? I imagine Cowley's Poems. Overleap sixty years, and you are in the generation of which Pope asked, "Who now reads Cowley?" What works were ever expected with more impatience by the public than those of Lord Bolingbroke, which appeared, I think, in 1754? In 1814, no bookseller would have thanked you for the copyright of them all, if you had offered it to him for nothing. What would Paternoster Row give now for the copyright of Hayley's "Triumphs of Temper," so much admired within the memory of many people still living? I say, therefore, that, from the very nature of literary property, it will almost always pass away from an author's family; and I say, that the price given for it to the family will bear a very small proportion to the tax which the purchaser, if his speculation turns out well, will in the course of a long series of years levy on the public.

If, Sir, I wished to find a strong and perfect illustration of the effects which I anticipate from long copyright, I should select, — my honorable and learned friend will be surprised, — I should select the case of Milton's granddaughter. As often as this bill has been under discussion, the fate of Milton's granddaughter has been brought forward by the advocates of monopoly. My honorable and learned friend has repeatedly told the story with great eloquence and effect. He has dilated on the sufferings,

on the abject poverty, of this ill-fated woman, the last of an illustrious race. He tells us that, in the extremity of her distress, Garrick gave her a benefit performance of "Comus," that Johnson wrote a prologue, and that the public contributed some hundreds of pounds. Was it fit, he asks, that she should receive, in this eleemosynary form, a small portion of what was in truth a debt? Why, he asks, instead of obtaining a pittance from charity, did she not live in comfort and luxury on the proceeds of the sale of her ancestor's works? But, Sir, will my honorable and learned friend tell me that this event, which he has so often and so pathetically described, was caused by the shortness of the term of copyright? Why, at that time, the duration of copyright was longer than even he, at present, proposes to make it. The monopoly lasted, not sixty years, but forever. At the time at which Milton's granddaughter asked charity, Milton's works were the exclusive property of a bookseller. Within a few months of the day on which the benefit was given at Garrick's theater, the holder of the copyright of "Paradise Lost," — I think it was Tonson, — applied to the Court of Chancery for an injunction against a bookseller who had published a cheap edition of the great epic poem, and obtained the injunction. The representation of "Comus" was, if I remember rightly, in 1750; the injunction in 1752. Here, then, is a perfect illustration of the effect of long copyright. Milton's works are the property of a single publisher. Everybody who wants them must buy them at Tonson's shop, and at Tonson's price. Whoever attempts to undersell Tonson is harassed with legal proceedings. Thousands who would gladly possess a copy of "Paradise Lost" must forego that great enjoyment. And what, in the meantime, is the situation of the only person for whom we can suppose that the author, protected at such a cost to the public, was at all interested? She is reduced to utter destitution. Milton's works are under a monopoly. Milton's granddaughter is starving. The reader is pillaged; but the writer's

family is not enriched. Society is taxed doubly. It has to give an exorbitant price for the poems; and it has at the same time to give alms to the only surviving descendant of the poet.

But this is not all. I think it right, Sir, to call the attention of the House to an evil, which is perhaps more to be apprehended when an author's copyright remains in the hands of his family, than when it is transferred to booksellers. I seriously fear that, if such a measure as this should be adopted, many valuable works will be either totally suppressed or grievously mutilated. I can prove that this danger is not chimerical; and I am quite certain that, if the danger be real, the safeguards which my honorable and learned friend has devised are altogether nugatory. That the danger is not chimerical may easily be shown. Most of us, I am sure, have known persons who, very erroneously as I think, but from the best motives, would not choose to reprint Fielding's novels or Gibbon's "History of the Decline and Fall of the Roman Empire." Some gentlemen may perhaps be of opinion that it would be as well if "Tom Jones" and Gibbon's "History" were never reprinted. I will not, then, dwell on these or similar cases. I will take cases respecting which it is not likely that there will be any difference of opinion here; cases, that is, in which the danger of which I now speak is not matter of supposition, but matter of fact. Take Richardson's novels. Whatever I may, on the present occasion, think of my honorable and learned friend's judgment as a legislator, I must always respect his judgment as a critic. He will, I am sure, say that Richardson's novels are among the most valuable, among the most original, works in our language. No writings have done more to raise the fame of English genius in foreign countries. No writings are more deeply pathetic. No writings, those of Shakespeare excepted, show more profound knowledge of the human heart. As to their moral tendency, I can cite the most respectable testimony. Dr. Johnson describes Richardson as one who had taught the passions to move at the command of virtue. My dear

and honored friend, Mr. Wilberforce, in his celebrated religious treatise, when speaking of the unchristian tendency of the fashionable novels of the eighteenth century, distinctly excepts Richardson from the censure. Another excellent person, whom I can never mention without respect and kindness, Mrs. Hannah More, often declared in conversation, and has declared in one of her published poems, that she first learned from the writings of Richardson those principles of piety by which her life was guided. I may safely say that books celebrated as works of art through the whole civilized world, and praised for their moral tendency by Dr. Johnson, by Mr. Wilberforce, by Mrs. Hannah More, ought not to be suppressed. Sir, it is my firm belief, that if the law had been what my honorable and learned friend proposes to make it, they would have been suppressed. I remember Richardson's grandson well; he was a clergyman in the city of London; he was a most upright and excellent man; but he had conceived a strong prejudice against works of fiction. He thought all novel-reading not only frivolous but sinful. He said, — this I state on the authority of one of his clerical brethren who is now a bishop, — he said that he had never thought it right to read one of his grandfather's books. Suppose, Sir, that the law had been what my honorable and learned friend would make it. Suppose that the copyright of Richardson's novels had descended, as might well have been the case, to this gentleman. I firmly believe that he would have thought it sinful to give them a wide circulation. I firmly believe that he would not for a hundred thousand pounds have deliberately done what he thought sinful. He would not have reprinted them. And what protection does my honorable and learned friend give to the public in such a case? Why, Sir, what he proposes is this: if a book is not reprinted during five years, any person who wishes to reprint it may give notice in the *London Gazette:* the advertisement must be repeated three times: a year must elapse; and then, if the proprietor of the copyright does not put forth

a new edition, he loses his exclusive privilege. Now, what protection is this to the public? What is a new edition? Does the law define the number of copies that make an edition? Does it limit the price of a copy? Are twelve copies on large paper, charged at thirty guineas each, an edition? It has been usual, when monopolies have been granted, to prescribe numbers and to limit prices. But I do not find that my honorable and learned friend proposes to do so in the present case. And, without some such provision, the security which he offers is manifestly illusory. It is my conviction that, under such a system as that which he recommends to us, a copy of "Clarissa" would have been as rare as an Aldus or a Caxton.

I will give another instance. One of the most instructive, interesting, and delightful books in our language is Boswell's "Life of Johnson." Now it is well known that Boswell's eldest son considered this book, considered the whole relation of Boswell to Johnson, as a blot in the escutcheon of the family. He thought, not perhaps altogether without reason, that his father had exhibited himself in a ludicrous and degrading light. And thus he became so sore and irritable that at last he could not bear to hear the "Life of Johnson" mentioned. Suppose that the law had been what my honorable and learned friend wishes to make it. Suppose that the copyright of Boswell's "Life of Johnson" had belonged, as it well might, during sixty years, to Boswell's eldest son. What would have been the consequence? An unadulterated copy of the finest biographical work in the world would have been as scarce as the first edition of Camden's "Britannia."

These are strong cases. I have shown you that, if the law had been what you are now going to make it, the finest prose work of fiction in the language, the finest biographical work in the language, would very probably have been suppressed. But I have stated my case weakly. The books which I have mentioned are singularly inoffensive books, books not touching on

any of those questions which drive even wise men beyond the bounds of wisdom. There are books of a very different kind, books which are the rallying points of great political and religious parties. What is likely to happen if the copyright of one of these books should by descent or transfer come into the possession of some hostile zealot? I will take a single instance. It is only fifty years since John Wesley died; and all his works, if the law had been what my honorable and learned friend wishes to make it, would now have been the property of some person or other. The sect founded by Wesley is the most numerous, the wealthiest, the most powerful, the most zealous of sects. In every parliamentary election it is a matter of the greatest importance to obtain the support of the Wesleyan Methodists. Their numerical strength is reckoned by hundreds of thousands. They hold the memory of their founder in the greatest reverence; and not without reason, for he was unquestionably a great and a good man. To his authority they constantly appeal. His works are in their eyes of the highest value. His doctrinal writings they regard as containing the best system of theology ever deduced from Scripture. His journals, interesting even to the common reader, are peculiarly interesting to the Methodist: for they contain the whole history of that singular polity which, weak and despised in its beginning, is now, after the lapse of a century, so strong, so flourishing, and so formidable. The hymns to which he gave his imprimatur are a most important part of the public worship of his followers. Now, suppose that the copyright of these works should belong to some person who holds the memory of Wesley and the doctrines and discipline of the Methodists in abhorrence. There are many such persons. The Ecclesiastical Courts are at this very time sitting on the case of a clergyman of the Established Church who refused Christian burial to a child baptized by a Methodist preacher. I took up the other day a work which is considered as among the most respectable organs of a large and growing party in the Church

of England, and there I saw John Wesley designated as a forsworn priest. Suppose that the works of Wesley were suppressed. Why, Sir, such a grievance would be enough to shake the foundations of government. Let gentlemen who are attached to the Church reflect for a moment what their feelings would be if the Book of Common Prayer were not to be reprinted for thirty or forty years, if the price of a Book of Common Prayer were run up to five or ten guineas. And then let them determine whether they will pass a law under which it is possible, under which it is probable, that so intolerable a wrong may be done to some sect consisting perhaps of half a million of persons.

I am so sensible, Sir, of the kindness with which the House has listened to me, that I will not detain you longer. I will only say this, that if the measure before us should pass, and should produce one tenth part of the evil which it is calculated to produce, and which I fully expect it to produce, there will soon be a remedy, though of a very objectionable kind. Just as the absurd Acts which prohibited the sale of game were virtually repealed by the poacher, just as many absurd revenue Acts have been virtually repealed by the smuggler, so will this law be virtually repealed by piratical booksellers. At present the holder of copyright has the public feeling on his side. Those who invade copyright are regarded as knaves who take the bread out of the mouths of deserving men. Everybody is well pleased to see them restrained by the law, and compelled to refund their ill-gotten gains. No tradesman of good repute will have anything to do with such disgraceful transactions. Pass this law: and that feeling is at an end. Men very different from the present race of piratical booksellers will soon infringe this intolerable monopoly. Great masses of capital will be constantly employed in the violation of the law. Every art will be employed to evade legal pursuit; and the whole nation will be in the plot. On which side indeed should the public sympathy be when the question is whether some book as popular

as "Robinson Crusoe" or the "Pilgrim's Progress" shall be in every cottage, or whether it shall be confined to the libraries of the rich for the advantage of the great-grandson of a bookseller who, a hundred years before, drove a hard bargain for the copyright with the author when in great distress? Remember too that, when once it ceases to be considered as wrong and discreditable to invade literary property, no person can say where the invasion will stop. The public seldom makes nice distinctions. The wholesome copyright which now exists will share in the disgrace and danger of the new copyright which you are about to create. And you will find that, in attempting to impose unreasonable restraints on the reprinting of the works of the dead, you have, to a great extent, annulled those restraints which now prevent men from pillaging and defrauding the living. If I saw, Sir, any probability that this bill could be so amended in the committee that my objections might be removed, I would not divide the House in this stage. But I am so fully convinced that no alteration which would not seem insupportable to my honorable and learned friend could render his measure supportable to me, that I must move, though with regret, that this bill be read a second time this day six months.

THE SECOND SPEECH ON COPYRIGHT, APRIL 6, 1842

Mr. Greene, — I have been amused and gratified by the remarks which my noble friend has made on the arguments by which I prevailed on the last House of Commons to reject the bill introduced by a very able and accomplished man, Mr. Sergeant Talfourd. My noble friend has done me a high and rare honor. For this is, I believe, the first occasion on which a speech made in one Parliament has been answered in another. I should not find it difficult to vindicate the soundness of the reasons which I formerly urged, to set them in a clearer light, and to fortify them by additional facts. But it seems to me that we had better discuss the bill which is now on our table than the bill which was there fourteen months ago. Glad I am to find that there is a very wide difference between the two bills, and that my noble friend, though he has tried to refute my arguments, has acted as if he had been convinced by them. I objected to the term of sixty years as far too long. My noble friend has cut that term down to twenty-five years. I warned the House that, under the provisions of Mr. Sergeant Talfourd's bill, valuable works might not improbably be suppressed by the representatives of authors. My noble friend has prepared a clause which, as he thinks, will guard against that danger. I will not therefore waste the time of the committee by debating points which he has conceded, but will proceed at once to the proper business of this evening.

Sir, I have no objection to the principle of my noble friend's bill. Indeed, I had no objection to the principle of the bill of last year. I have long thought that the term of copyright ought

to be extended. When Mr. Sergeant Talfourd moved for leave to bring in his bill, I did not oppose the motion. Indeed I meant to vote for the second reading, and to reserve what I had to say for the committee. But the learned Sergeant left me no choice. He in strong language begged that nobody who was disposed to reduce the term of sixty years would divide with him. "Do not," he said, "give me your support if all that you mean to grant to men of letters is a miserable addition of fourteen or fifteen years to the present term. I do not wish for such support. I despise it." Not wishing to obtrude on the learned Sergeant a support which he despised, I had no course left but to take the sense of the House on the second reading. The circumstances are now different. My noble friend's bill is not at present a good bill; but it may be improved into a very good bill; nor will he, I am persuaded, withdraw it, if it should be so improved. He and I have the same object in view; but we differ as to the best mode of attaining that object. We are equally desirous to extend the protection now enjoyed by writers. In what way it may be extended with most benefit to them and with least inconvenience to the public is the question.

The present state of the law is this. The author of a work has a certain copyright in that work for a term of twenty-eight years. If he should live more than twenty-eight years after the publication of the work, he retains the copyright to the end of his life.

My noble friend does not propose to make any addition to the term of twenty-eight years. But he proposes that the copyright shall last twenty-five years after the author's death. Thus my noble friend makes no addition to that term which is certain, but makes a very large addition to that term which is uncertain.

My plan is different. I would make no addition to the uncertain term; but I would make a large addition to the certain term. I propose to add fourteen years to the twenty-eight years which the law now allows to an author. His copyright will in

this way last till his death, or till the expiration of forty-two years, whichever shall first happen. And I think that I shall be able to prove to the satisfaction of the committee that my plan will be more beneficial to literature and to literary men than the plan of my noble friend.

It must surely, Sir, be admitted that the protection which we give to books ought to be distributed as evenly as possible, that every book should have a fair share of that protection, and no book more than a fair share. It would evidently be absurd to put tickets into a wheel, with different numbers marked upon them, and to make writers draw, one a term of twenty-eight years, another a term of fifty, another a term of ninety. And yet this sort of lottery is what my noble friend proposes to establish. I know that we cannot altogether exclude chance. You have two terms of copyright, one certain, the other uncertain; and we cannot, I admit, get rid of the uncertain term. It is proper, no doubt, that an author's copyright should last during his life. But, Sir, though we cannot altogether exclude chance, we can very much diminish the share which chance must have in distributing the recompense which we wish to give to genius and learning. By every addition which we make to the certain term we diminish the influence of chance; by every addition which we make to the uncertain term we increase the influence of chance. I shall make myself best understood by putting cases. Take two eminent female writers, who died within our own memory, Madame D'Arblay and Miss Austen. As the law now stands, Miss Austen's charming novels would have only twenty-eight to thirty-three years of copyright. For that extraordinary woman died young: she died before her genius was fully appreciated by the world. Madame D'Arblay outlived the whole generation to which she belonged. The copyright of her celebrated novel, "Evelina," lasted under the present law sixty-two years. Surely this inequality is sufficiently great, sixty-two years of copyright for "Evelina," only twenty-eight for

" Persuasion." But to my noble friend this inequality seems not great enough. He proposes to add twenty-five years to Madame D'Arblay's term, and not a single day to Miss Austen's term. He would give to " Persuasion " a copyright of only twenty-eight years, as at present, and to " Evelina " a copyright more than three times as long, a copyright of eighty-seven years. Now, is this reasonable? See, on the other hand, the operation of my plan. I make no addition at all to Madame D'Arblay's term of sixty-two years, which is, in my opinion, quite long enough; but I extend Miss Austen's term to forty-two years, which is, in my opinion, not too much. You see, Sir, that at present chance has too much sway in this matter; that at present the protection which the state gives to letters is very unequally given. You see that if my noble friend's plan be adopted, more will be left to chance than under the present system, and you will have such inequalities as are unknown under the present system. You see also that, under the system which I recommend, we shall have, not perfect certainty, not perfect equality, but much less uncertainty and inequality than at present.

But this is not all. My noble friend's plan is not merely to institute a lottery in which some writers will draw prizes and some will draw blanks. It is much worse than this. His lottery is so contrived that in the vast majority of cases the blanks will fall to the best books, and the prizes to books of inferior merit.

Take Shakespeare. My noble friend gives a longer protection than I should give to " Love's Labour 's Lost " and " Pericles, Prince of Tyre," but he gives a shorter protection than I should give to " Othello " and " Macbeth."

Take Milton. Milton died in 1674. The copyrights of Milton's great works would according to my noble friend's plan expire in 1699. " Comus " appeared in 1634, the " Paradise Lost " in 1668. To " Comus," then, my noble friend would give sixty-five years of copyright, and to the " Paradise Lost " only thirty-one years. Is that reasonable? " Comus " is a noble

poem: but who would rank it with the "Paradise Lost"? My plan would give forty-two years both to the "Paradise Lost" and to "Comus."

Let us pass from Milton to Dryden. My noble friend would give sixty years of copyright to Dryden's worst works; to the encomiastic verses on Oliver Cromwell, to the "Wild Gallant," to the "Rival Ladies," to other wretched pieces as bad as anything written by Flecknoe or Settle: but for "Theodore and Honoria," for "Sigismunda," for "Cymon," for "Palamon and Arcite," for "Alexander's Feast," my noble friend thinks a copyright of twenty-eight years sufficient. Of all Pope's works, that to which my noble friend would give the largest measure of protection is the volume of "Pastorals," remarkable only as the production of a boy. Johnson's first work was a translation of a book of travels in Abyssinia, published in 1735. It was so poorly executed that in his later years he did not like to hear it mentioned. Boswell once picked up a copy of it, and told his friend that he had done so. "Do not talk about it," said Johnson; "it is a thing to be forgotten." To this performance my noble friend would give protection during the enormous term of seventy-five years. To the "Lives of the Poets" he would give protection during about thirty years. Well; take Henry Fielding; it matters not whom I take, but take Fielding. His early works are read only by the curious, and would not be read even by the curious, but for the fame which he acquired in the latter part of his life by works of a very different kind. What is the value of the "Temple Beau," of the "Intriguing Chambermaid," of half a dozen other plays of which few gentlemen have even heard the names? Yet to these worthless pieces my noble friend would give a term of copyright longer by more than twenty years than that which he would give to "Tom Jones" and "Amelia."

Go on to Burke. His little tract, entitled "The Vindication of Natural Society," is certainly not without merit; but it would

not be remembered in our days if it did not bear the name of Burke. To this tract my noble friend would give a copyright of near seventy years. But to the great work on the French Revolution, to the "Appeal from the New to the Old Whigs," to the letters on the Regicide Peace, he would give a copyright of thirty years or little more.

And, Sir, observe that I am not selecting here and there extraordinary instances in order to make up the semblance of a case. I am taking the greatest names of our literature in chronological order. Go to other nations; go to remote ages; you will still find the general rule the same. There was no copyright at Athens or Rome; but the history of the Greek and Latin literature illustrates my argument quite as well as if copyright had existed in ancient times. Of all the plays of Sophocles, the one to which the plan of my noble friend would have given the most scanty recompense would have been that wonderful masterpiece, the "Œdipus at Colonos." Who would mention in the same breath, or hardly on the same day, the Speech of Demosthenes against his Guardians, and the Speech for the Crown? My noble friend, indeed, would not class them together. For to the Speech against the Guardians he would give a copyright of near seventy years; and to the incomparable Speech for the Crown a copyright of less than half that length. Go to Rome. My noble friend would give more than twice as long a term to Cicero's juvenile declamation in defense of Roscius Amerinus as to the Second Philippic. Go to France; my noble friend would give a far longer term to Racine's "Frères Ennemis" than to "Athalie," and to Molière's "Etourdi" than to "Tartuffe." Go to Spain. My noble friend would give a longer term to forgotten works of Cervantes, works which nobody now reads, than to "Don Quixote." Go to Germany. According to my noble friend's plan, of all the works of Schiller the "Robbers" would be the most favored: of all the works of Goethe, the "Sorrows of Werther" would be the most favored.

I thank the committee for listening so kindly to this long enumeration. Gentlemen will perceive, I am sure, that it is not from pedantry that I mention the names of so many books and authors. But, just as in our debates on civil affairs we constantly draw illustrations from civil history, we must in a debate about literary property draw our illustrations from literary history. Now, Sir, I have, I think, shown from literary history that the effect of my noble friend's plan would be to give to crude and imperfect works, to third-rate and fourth-rate works, a great advantage over the highest productions of genius. It is impossible to account for the facts which I have laid before you by attributing them to mere accident. Their number is too great, their character too uniform. We must seek for some other explanation; and we shall easily find one.

It is the law of our nature that the mind shall attain its full power by slow degrees; and this is especially true of the most vigorous minds. Young men, no doubt, have often produced works of great merit; but it would be impossible to name any writer of the first order whose juvenile performances were his best. That all the most valuable books of history, of philology, of physical and metaphysical science, of divinity, of political economy, have been produced by men of mature years will hardly be disputed.

The case may not be quite so clear as respects works of the imagination. And yet I know no work of the imagination of the very highest class that was ever in any age or country produced by a man under thirty-five. Whatever powers a youth may have received from nature, it is impossible that his taste and judgment can be ripe, that his mind can be richly stored with images, that he can have observed the vicissitudes of life, that he can have studied the nicer shades of character. How, as Marmontel very sensibly said, is a person to paint portraits who has never seen faces? On the whole, I believe that I may without fear of contradiction affirm this, that of the good books

now extant in the world more than nineteen-twentieths were published after the writers had attained the age of forty. If this be so, it is evident that the plan of my noble friend is framed on a vicious principle. For, while he gives to juvenile productions a very much larger protection than they now enjoy, he does comparatively little for the works of men in the full maturity of their powers, and absolutely nothing for any work which is published during the last three years of the life of the writer. For by the existing law the copyright of such a work lasts twenty-eight years from the publication, and my noble friend gives only twenty-five years to be reckoned from the writer's death.

What I recommend is that the certain term reckoned from the date of publication shall be forty-two years instead of twenty-eight years. In this arrangement there is no uncertainty, no inequality. The advantage which I propose to give will be the same to every book. No work will have so long a copyright as my noble friend gives to some books, or so short a copyright as he gives to others. No copyright will last ninety years. No copyright will end in twenty-eight years. To every book published in the course of the last seventeen years of a writer's life I give a longer term of copyright than my noble friend gives; and I am confident that no person versed in literary history will deny this, — that in general the most valuable works of an author are published in the course of the last seventeen years of his life. I will rapidly enumerate a few, and but a few, of the great works of English writers to which my plan is more favorable than my noble friend's plan. To "Lear," to "Macbeth," to "Othello," to the "Fairy Queen," to the "Paradise Lost," to Bacon's "Novum Organum" and "De Augmentis," to Locke's "Essay on the Human Understanding," to Clarendon's History, to Hume's History, to Gibbon's History, to Smith's "Wealth of Nations," to Addison's Spectators, to almost all the great works of Burke, to "Clarissa," and "Sir Charles Grandison," to "Joseph Andrews," "Tom Jones," and

"Amelia," and, with the single exception of "Waverley," to all the novels of Sir Walter Scott, I give a longer term of copyright than my noble friend gives. Can he match that list? Does not that list contain what England has produced greatest in many various ways, poetry, philosophy, history, eloquence, wit, skillful portraiture of life and manners?

I confidently, therefore, call on the committee to take my plan in preference to the plan of my noble friend. I have shown that the protection which he proposes to give is unequal, and unequal in the worst way. I have shown that his plan is to give protection to books in inverse proportion to their merit. I shall move when we come to the third clause of the bill to omit the words "twenty-five years," and in a subsequent part of the same clause I shall move to substitute for the words "twenty-eight years" the words "forty-two years." I earnestly hope that the committee will adopt these amendments; and I feel the firmest conviction that my noble friend's bill, so amended, will confer a great boon on men of letters with the smallest possible inconvenience to the public.

COMMENTS, TOPICS, AND QUESTIONS ON MACAULAY'S COPYRIGHT SPEECHES

1. With the following questions as guide, criticize Macaulay's introduction to each of his speeches on copyright: (*a*) Does Macaulay's introduction explain the origin and history of the proposition which he is debating? (*b*) Does it sift out the admitted matter? (*c*) Does it narrow the subject to certain main points? (*d*) Does it conform in any respects with what you have been taught to be the nature of an introduction to an argument?

2. In studying Cicero's orations you may have been taught something regarding the names of the usual parts of an oration. What are these names, and which of the usual parts does Macaulay show in his speeches on copyright?

3. (*a*) What were the propositions which Macaulay's opponents made, what were their arguments in support of their assertions, and what were Macaulay's propositions? (*b*) By what arguments did Macaulay prove his principal assertions, or propositions? (*c*) What refutation did Macaulay make use of in his speeches? (*d*) Mention five notable orations by contemporaries of Macaulay, five by speakers of earlier times, and five by living orators.

4. A newspaper man who sat in the reporters' gallery of the House of Commons and there took down the speeches says that Macaulay used to plunge at once into the heart of a matter and continue his loud resounding pace from beginning to end, without halt or pause; he says that Macaulay was the terror of the reporters because of his vehemence and his display of names, dates, and titles. How do his copyright speeches illustrate these characteristics?

5. Sir Robert Peel, the prime minister, walked across the floor of the House after Macaulay's speech of 1842 and assured Macaulay that the last twenty minutes had radically altered his own views on the law of copyright. (*a*) Which part of Macaulay's speech do you think probably produced this effect? (*b*) What effect has the speech had in forming your own views on the law of copyright?

6. Find illustrations of the truth of the following assertion: "Macaulay had the faculty, possessed by every great orator, of compressing a great deal into a short space."

7. In commenting on the debate which resulted in the acceptance of Macaulay's fundamental proposition regarding the period of copyright, an editorial writer in the London *Times* took occasion to discuss why there should be copyright and what its nature should be; the writer said that the object of copyright should be to secure to the public the freest possible access to the best possible works upon the best possible terms, and thought that the new bill would accomplish this object. What does your study of the subject lead you to consider to be the principal objects or aims of copyright law?

8. In one hundred words each summarize Macaulay's two copyright speeches. Pay due regard to proportion.

9. What have Macaulay's speeches taught you of the art of using words, forming sentences, constructing paragraphs, and building an argument?

10. Where did Macaulay go to college? What good did college do him? What did he do after college to earn his living? What useful services did he render to the world in return for the many advantages which he enjoyed?

11. The favorite niece of Lord Macaulay, Mrs. Fell, died February 13, 1913, in a hospital in Manchester. If the present copyright law had been in operation at the time of Macaulay's death, how might Mrs. Fell possibly have benefited by the operation of the law?

12. It has been said that Macaulay could read half-a-dozen books in his cab on the way to the House of Commons. Theodore Roosevelt is said to have the same faculty of lighting at once in a book on anything in it that is useful for his purposes. What do you think of this method of reading?

13. What is the purpose of oratory?

14. A man who sat in the House for thirty-eight years says that the only sort of debate worth a farthing is that which gives information to the House or to the committee — the careful, deliberate debate, supplying food for thought because it is information. How does this opinion agree or disagree with your own idea of the best kind of parliamentary speech? Test Macaulay's speeches by this standard.

15. What has Macaulay taught you regarding British authors?

16. Find the substance of one of the following speeches by Macaulay: On the Bill to Repeal the Civil Disabilities affecting British-born Subjects professing the Jewish Religion, On the Motion that leave be given to bring in a Bill to Amend the Representation of the People of England and Wales, Slavery in the Colonies, The Treaty of Washington, The Sugar Duties, On the Occasion of Macaulay's Inauguration as Lord Rector of Glasgow University (1849), Address in Edinburgh on His Reëlection to Parliament (1852).

17. Prepare to make a speech for or against the proposition that the duration of copyright should be for sixty years from the death of the author or that the duration should be for twenty-five years from the death of the author.

18. Should the duration of copyright be longer than the duration of patents? Give reasons for your answer.

19. Comment upon or explain the following: *primogeniture, gavelkind, borough English, Mæcenas, Pollio, the Medici, Paternoster*

Row, Caxton, the greatest names of our literature in chronological order, Blenheim, Camden.

20. When Macaulay says "Sir," in the first copyright speech, he is addressing the speaker of the House of Commons, Charles Shaw Lefevre, who presided over the sessions of the House, except when the House met as a committee of the whole, from 1839 to 1857, when he was raised to the peerage with the title Viscount Eversley. As speaker, his manner was dignified and impartial. Who presided over the session of the House when Macaulay made his second speech on copyright?

21. What is the present law in the United States regarding the duration of copyright?

22. Macaulay's personal manner as a speaker has been described as follows: His voice was monotonous, pitched in alto, shrill, pouring forth words with inconceivable velocity — a voice well adapted to give utterance with precision to the conclusions of the intellect, but in no way naturally formed to express feeling or passion. His face was literally instinct with expression: the eye, above all, full of deep thought and meaning. In stature, he was short and stout. How does this verbal description agree with the idea that you gain of Macaulay by looking at his picture?

23. Imagine Talfourd, Mahon, and Macaulay talking over the subject of the proper duration of copyright. What do you think each would say?

LINCOLN'S ADDRESS AT COOPER INSTITUTE

INTRODUCTION TO LINCOLN'S ADDRESS AT COOPER INSTITUTE

ABRAHAM LINCOLN (1809–1865)

A complete collection of lives of poor men who became famous would have to include an account of the life of Abraham Lincoln, for he was one of the poorest and became one of the most famous. A short sketch of Lincoln's life may well begin with his own résumé, to be supplemented by additional details from the standard biographies. In the Congressional Directory, 1847, Lincoln put on record the following items: "Born February 12, 1809, in Hardin County, Kentucky. Education defective. Profession, a lawyer. Have been a captain of volunteers in the Black Hawk War. Postmaster in a very small office. Four times a member of the Illinois Legislature, and a member of the lower house of Congress."

When Lincoln says that his education was defective he means that he had little schooling. Altogether, because of necessary absences, he did not have more than a year at school, though the period during which he attended school for part of the time extended through some ten years. He went to school first in Kentucky for a few weeks, the time being divided between two schools taught by traveling schoolmasters. When he moved to Indiana at the age of seven, he did not yet know how to write. At the age of nine his stepmother sent him to a log schoolhouse, where he learned to write and soon stood at the head of his class. He studied at home as much as he could, even carrying books about with him while he was working on the farm.

His next school, which he attended at the age of fourteen, was taught by a man who among other things taught manners to the country children; for instance, one scholar would be asked to leave the room and then come in as if entering a parlor, whereupon a fellow student would conduct him around and formally introduce him to the others. At sixteen Lincoln attended a school which required a four-mile walk from his home. By the time he was seventeen he was six feet, four inches tall, and was through with school.

During the years of his nominal attendance at school, it was his study at home that counted most in his mental development. At home he read the Bible, "Æsop's Fables," "Robinson Crusoe," "Pilgrim's Progress," a history of the United States, and Weems's "Life of Washington." A characteristic of his was that he could remember what he read so that he was able to use it afterwards. He read the Bible and "Æsop's Fables" over and over; they furnished him with many of the figures of speech and allusions that he used later in public addresses. He borrowed the statutes of Indiana and read eagerly. All this time he practiced composition by himself, transferring into copy books things that particularly interested him. He was so keen for study that neighbors thought he was lazy; he would rather study than work at farming or carpentering.

After his schooling was over, Lincoln continued his education through his reading. One of the books that he gave much time to was Kirkham's "Grammar." When he was twenty-two years old, he borrowed this, and he would lie on the counter of the country store where he was clerking, and thus would pore over the grammar. The plays of Shakespeare were another educative force in his life. He committed scenes to memory and acquired a permanent liking for good plays. He also enjoyed lighter reading, such as the exciting short stories then widely popular but now forgotten. A standard law book, Blackstone's "Commentaries," was another book which he read in his early days.

However, his law partner says that he never knew Lincoln later in life to read entirely through a law book of any kind, though the law became his profession before he abandoned it permanently for politics. Lincoln did not as a lawyer study thoroughly the rules of evidence, of pleading, and of practice; instead he preferred to throw aside mere form and try to get at the essential points of justice involved in any case with which he had to do. Many stories are told by his partner, Herndon, of how Lincoln used to confuse opposing lawyers by unexpected unconventionalities of method. One eloquent opponent he completely upset in a curious way. After Judge Logan, a learned and brilliant lawyer who was opposing him, had spoken eloquently before the jury and had evidently impressed them strongly, Lincoln discredited his appeal by beginning his own address thus: "Gentlemen, you must be careful and not permit yourselves to be overcome by the eloquence of counsel for the defense. Judge Logan, I know, is an effective lawyer. I have met him too often to doubt that; but shrewd and careful though he be, still he is sometimes wrong. Since this trial has begun, I have discovered that, with all his caution and fastidiousness, he has n't knowledge enough to put his shirt on right." The opposing lawyer blushed, and the jury laughed, for all immediately observed that as a matter of fact the lawyer had on a new shirt and by mistake had drawn it over his head with the pleated bosom behind. Again, in a murder case, Lincoln won acquittal for his client by showing that a witness who had given strong testimony that he clearly saw the fatal blow struck by bright moonlight was wrong, because on the night in question, at the time mentioned by the witness, the calendar showed that the moon had set. Once Lincoln won a case for a poor widow by painting in emotional language the trials of her soldier husband in the Revolutionary War, and so moved the jury that they promptly gave her her claim for part of her pension money which was being withheld from her by a pension

lawyer. Yet, with all his keenness and unconventionality of method, Lincoln almost never took a case unless he was convinced that his client was in the right. "Honest Abe" the people called him.

Though known as a lawyer and making his living by that profession, Lincoln showed a strong inclination for politics. He did not merely wait for the people to call him to various offices but worked to obtain office. He continually calculated and planned ahead so as to be elected; he cultivated the acquaintance of newspaper men and strove to gain favor with all kinds of people. Though defeated the first time he ran for the legislature (at the age of twenty-three), he was so popular in his own precinct that he secured two hundred seventy-seven out of the two hundred eighty-four votes cast. He was so sympathetic that everybody felt drawn to him; there was no one readier to do a favor for a person in need than young Lincoln. He was so intellectually keen that when he made stump speeches the majority of his hearers were convinced by his words. A contemporary describes his method as that of taking the heart captive and breaking like a sun over the understanding. His unlimited hours of listening and talking in the country store made him acquainted with men's lives and their ways of thinking. His shrewd manner of confusing an opponent during a campaign helped to make his own election sure. Yet he never turned the laugh on an opponent merely for the sake of confusing the judgment of his hearers, for he held that turning the laugh on an opposing candidate never gained votes.

His own sketch of his life, made in 1847, shows that up to that time he had been successful in politics, as a member of the Whig party, for he had been four times elected a member of the Illinois legislature, had been a postmaster, — to be sure, it was in a small town, and Lincoln used to say that he carried the office in his hat because he used to put the letters in his

hat and start out to deliver them, — and had been elected to the lower house of Congress at Washington. From the time of completing his term at Washington until the campaign of 1856 he sometimes had periods of deep melancholy because he felt that there was no further chance for political preferment for him. After long consideration he decided to ally himself with the new Republican party, because that party appeared to stand for the principles in which he believed.

In 1856, when the Republicans organized in Illinois, Lincoln made a memorable speech at the Bloomington convention. Here he took the stand that slavery was wrong — a position which he maintained through all the crucial speech-making of the next four years, until his nomination for the presidency. He soon came to feel himself to be the leading Republican of his state, and was recognized as such by others. He was nominated for the United States Senate in 1858 at the Republican convention at Springfield. Here he made the speech known as the "House-divided-against-itself Speech." Before delivering the speech, he read it to friends, some of whom said that it would cost him the senatorship; but one man said that if he should deliver it as he had written it, it would make him president. After the campaign was under way he challenged his Democratic opponent, Judge Douglas, to a series of debates. Douglas agreed to meet him at seven places, one in each congressional district outside of Chicago and Springfield.

The two men had known each other for twenty-four years. They were in the Illinois legislature together. They were admitted to practice in the Supreme Court of the state on the same day. They both courted the same lady. In 1846 they both represented Illinois at Washington; Lincoln in the House and Douglas in the Senate.

Lincoln did not win the election to the Senate. At Freeport, during the debates, he deliberately asked Douglas a question which his friends counseled him not to ask, because they were

sure that Douglas would say Yes to it and thus gain the seat in the Senate. Sure enough Douglas did say Yes, but Lincoln was satisfied because he felt certain that Douglas, by answering the question affirmatively, made it impossible for the Southerners to vote for him if he should run for the presidency. Lincoln said, "I am after larger game; the battle of 1860 is worth a hundred of this." Here is the momentous question that Lincoln asked Douglas: "Can the people of a United States Territory, in any lawful way, against the wish of any citizen of the United States, exclude slavery from its limits, prior to the formation of a State Constitution?"

After his defeat by Douglas, Lincoln wrote to a friend that he was glad he had made the race, because on the great and durable questions of the age it had given him a hearing that he could have had in no other way. He continued, "Though I now sink out of view and shall be forgotten, I believe I have made some marks which will tell for the cause of liberty long after I am gone." Certain it is that the Lincoln-Douglas debates were the "greatest intellectual wrestle that has ever taken place in this country."

By the year 1860 Lincoln was so widely and favorably known in the Middle West that it is safe to call him the leading Republican of that whole region. His speech at Cooper Union in New York in February of that year and the speeches that he made in New England during the same eastern trip brought him a personal acquaintance with principal members of his party in the eastern states. After leaving New York he visited his son Robert at Phillips Exeter Academy, where the boy was preparing for the Harvard entrance examinations. In a speech in Connecticut during this same eastern trip Lincoln said substantially what he had said in New York. It is interesting to note in passing that Connecticut was one of the states that in the nominating convention at Chicago a few months later turned from supporting Seward to give its vote for Lincoln and thus

practically assured the latter's nomination. He was nominated and then was elected, receiving one hundred eighty electoral votes. Douglas, one of the candidates, received only twelve votes; with one exception the slave states were all against him, as Lincoln had predicted they would be. Douglas tried to please everybody, and pleased almost no one. Lincoln stuck to eternal truths and won the presidency.

The story of Lincoln's acts as president during the Civil War lies outside the scope of this sketch. It is only necessary to recall to the minds of students of the Cooper Institute speech one or two points. One speech that Lincoln made while he was president has become a model of simple oratory — the Gettysburg address. Lincoln's state papers, such as the Emancipation Proclamation and the inaugural addresses, reveal the strong man back of them. The second inaugural address is unquestionably an extraordinary effort. In classic simplicity of language, in unstudied revelation of the noble ideals of a just and tender spirit, in interweaving of scriptural quotations with language as simple and clear as scripture itself, these few short pages stand unsurpassed in the history of our English tongue. Since Lincoln's death his reputation has grown rather than diminished. The last Congress authorized the building of a Lincoln memorial to cost two million dollars. But better than this, Lincoln's name is written into the lives of all American citizens.

THE BASIS OF LINCOLN'S ADDRESS AT COOPER INSTITUTE (DOUGLAS'S COLUMBUS SPEECH)

The first main part of Lincoln's speech at Cooper Institute is based upon a quotation from a speech at Columbus, Ohio, by Senator Stephen A. Douglas, made on September 7, 1859, and reported in the New York *Times* of September 8, 1859. The *Times* justly considered itself very enterprising in reporting Douglas's speech in full the next day after it was spoken, for

it must be remembered that the telegraph was then something of a novelty. In pluming itself on its enterprise in reporting the speech by telegraph the newspaper said:

> The orator on this occasion had hardly retired from the platform when the whispering wires began their mysterious work, and, flashed over nearly a thousand miles of space, the words caught up from his lips by the watchful stenographer in the early afternoon in the heart of the great West were transferred to type before midnight in the metropolis on the Atlantic coast.

In order to see whether Lincoln fairly quoted Douglas, the great exponent of Democratic principles, it is well to read just what Douglas said in the speech from which Lincoln took the text for his own speech at Cooper Institute.

In beginning his address Douglas said informally that he held his political action to be bound by "that great principle of the Nebraska bill which tells every political community to regulate its own affairs and mind its own business, and not to interfere with those of its neighbors." [Cheers, and cries of "Good."]

He made his position with regard to slavery clear, as shown by the following selections from his speech:

> I wish to invite your attention to-day to those great principles which underlie the Democratic Creed, and draw the dividing line between the Democracy and all the other political parties in this country upon this vexed question of Slavery, which for the last few years seems to have absorbed all other questions. The Democratic Party hold that it is the right of the people of every State, of every Territory, and of every political community within this Confederacy to decide that question to suit themselves. We not only apply that principle to the question of Slavery, but we extend it to all the local and domestic institutions of all the States and all the Territories of the Union. On the other hand, we are told by the leaders of the Republican Party that there is an irrepressible conflict between Freedom and Slavery, free labor and slave labor, Free States and Slave States, and that it is their intention to continue to excite, agitate, and divide the country until Slavery shall be abolished or established throughout the country. In other words, the Republican Party hold that there must be uniformity in the local institutions of all the States and Territories of the Union. Mr. Seward, in

his Rochester speech, says that it is an irrepressible conflict between enduring forces, that must last until uniformity shall be established.

Mr. Lincoln, in the Illinois canvass of last year, compared it to a house divided against itself which could not stand, and said that this Union could not permanently endure divided into Free and Slave States, as our fathers made it.

Hence you find that in the platform of the Republican Party, adopted in Philadelphia in 1856, it is declared that Congress possesses sovereign power over all the territories of the Union, and that it is both their right and their duty to exercise that power for the abolishment and prohibition of African Slavery.

Here you find at once the line of conflict between the Republican and the Democratic Party. The Republican Party hold that the Federal Government can decide the Slavery question for the people of the Territories and the new States; — we Democrats maintain that the Federal Government has no right to interfere with the question, either to establish, to protect, to abolish, or to prohibit Slavery; but that the people in each State, and each Territory, shall be left entirely free to decide it for themselves. ["Hear, hear," and applause.]

This question of the right of the people, in their local legislatures, to decide all internal questions to suit themselves, is not a new doctrine. It is as old as the principles of free government on the American Continent. It was the first question that seriously divided the American Colonies from the British Government, and out of which the first serious cause of quarrel arose. . . . Our fathers did not at first desire independence — they protested that they did not wish to separate from Great Britain; but what they contended for was the right of local self-government in their internal affairs, without the interference of Parliament, and if they could not obtain that right under the British Government they would declare their independence and fight for the right. . . . Thus you find that up to the time the Constitution was adopted this great principle of local self-government was maintained in the government of the new Territories, or new States, as they were then called. Now let me ask you, is it reasonable to suppose, after our fathers had fought the battles of the Revolution in behalf of the right of each Colony to govern itself in respect to its local and domestic concerns, that then they conferred upon Congress the arbitrary sovereign power which they had refused to the British Parliament? [Cries of "Never."]

The Republican Party, in their Philadelphia National Convention [1856], affirmed that Congress has sovereign power over the Territories

for their government, and that it is their duty to prohibit Slavery. . . . Washington, Jefferson, Hancock, Franklin, and the sages of the Revolution decided that the Colonies, Provinces, and Territories, when organized as political communities, had the inalienable right to govern themselves in respect to their local and domestic concerns. That is precisely what I now assert on behalf of the Territories. . . . If we will only apply the great principle of non-intervention by Congress, and self-government in the Territories, leaving the people to do as they please, there will be peace and harmony between all sections of the Union.

What interest have you in Ohio in the question of Slavery in South Carolina? You say that you do not think that Slavery is necessary or beneficial. That may be true, but your opinion might be different if your property was all invested in a rice plantation in South Carolina, where the white man cannot live and cultivate the soil. In Ohio it is a question only between the white man and the negro. But if you go farther South you will find that it is a question between the negro and the crocodile. The question then may be a very different one under different climates.

Our fathers, when they framed this Government under which we live, understood this question just as well, and even better, than we do now. They knew when they made this Republic that a country so broad as ours, with such a variety of climate, soil, and productions, must have a variety of interests, requiring different laws adapted to each locality. They knew that the laws which would suit the green hills of New England were ill adapted to the rice plantations of South Carolina; that the laws and regulations which would suit the corn and wheat fields of Ohio might not be well adapted to the sugar plantations of Louisiana; that the people in different localities, having a different climate, different interests and necessities, would want different laws adapted to each locality; and hence, when the Constitution was made, it was adopted on the theory that each State should decide the Slavery question for itself, and also all the local and domestic questions.

CIRCUMSTANCES OF THE DELIVERY AND PUBLICATION OF LINCOLN'S ADDRESS

In October, 1859, one month after Douglas's speech at Columbus, Lincoln received an invitation to deliver a lecture in the course then being arranged by Plymouth Church, Brooklyn.

Lincoln accepted the invitation and notified the committee that he would speak on a political subject. He named the time as some day late in February of the following year. Early in February of that year he learned that instead of being under the auspices of Plymouth Church the lecture was to be arranged for by the Young Men's Republican Union of New York City. The committee from the Republican organization selected a large hall for the occasion so as to make Lincoln's appearance in New York City memorable. A number of gentlemen of the city, among them the late Solomon W. Johnson, gave twenty dollars each to meet the expenses of the meeting and to pay Lincoln the two hundred dollars agreed upon for the delivery of the lecture. It was decided that an admission fee of twenty-five cents should be charged for the benefit of the Plymouth Church lecture course. The hall selected was that of the Cooper Institute building, since more generally known as Cooper Union, an educational institution established by Peter Cooper in 1857. In the newspapers of the time the hall is spoken of as mammoth. It is still considered a large hall and is the place where to this day some of the most important political meetings in New York are held.

On the morning of Monday, February 27, 1860, the New York papers ran the following advertisement:

THE HON. ABRAHAM LINCOLN

OF ILLINOIS WILL SPEAK AT THE

COOPER INSTITUTE

THIS (MONDAY) EVENING, FEBRUARY 27

TO THE

REPUBLICANS OF NEW YORK

TICKETS 25 CENTS

On the editorial page of the *Tribune* for the same date this additional notice of the meeting appeared:

Remember ABRAHAM LINCOLN'S Address at the Cooper Institute to-night, and ask your friends who are not Republicans to accompany you to hear it. It is not probable that Mr. Lincoln will be heard again in our City this year if ever. Let us improve the present opportunity.

When Mr. Lincoln reached New York on the Saturday preceding his lecture he was surprised that so much was being made of the approaching event. He began to feel abashed. He was sure that he would look awkward in his new suit of clothes, and he knew that he would feel ill at ease. As he entered the great, crowded hall escorted by David Dudley Field and William Cullen Bryant, he was greeted with applause. On the platform were distinguished Republicans — ex-Governor John A. King, General James W. Nye, Almshouse Governors Isaac J. Oliver and Washington Smith, E. Delafield Smith, Dr. S. Lounsberry, A. J. Dittenhoeffer, Esq., Judge E. D. Culver, Theodore Tilton, Thomas B. Stillman, Samuel Sinclair, J. S. Gibbons. "A considerable number of ladies graced the occasion by their presence." Stopping the applause, Mr. Field said:

FELLOW REPUBLICANS: I beg leave to nominate as Chairman of this meeting a Republican whom you all know well — William Cullen Bryant. [Cheers.] Those of you who are in favor of Mr. Bryant will say Aye. [General and thunderous "aye."] Those of you who are not in favor will say No. [Silence.] There is no No. [Laughter and applause.]

On taking the chair, Mr. Bryant said:

My friends, it is a grateful office that I perform in introducing to you at this time an eminent citizen of the West, whom you know, or whom you have known hitherto only by fame, but who has consented to address a New York assemblage this evening. The Great West, my friends, is a potent auxiliary in the battle we are fighting for Freedom against Slavery; in behalf of civilization against barbarism; for the occupation of some of the fairest regions of our continent, on which the settlers are now building their cabins.

He continued by saying that one of the children of the West, who had already rendered good service to the Republican cause, would speak. At the mention of the name of the speaker, Abraham Lincoln, there was prolonged applause followed by "Three cheers for *Abram* Lincoln." According to the *Times*, this is the way Lincoln acted at this point: "Mr. Lincoln advanced to the desk and, smiling graciously upon his audience, complacently awaited the termination of the cheering, and then proceeded with his address."

Mr. Lincoln had good reason to await with complacence the time for starting his address, for if ever a man made thorough preparation for an important speech, he did for this one. After he accepted the invitation in October, he spent many hours in reading dusty congressional reports and in reviewing the history of our government. The book which gave him most of the facts for the first main section of his speech was Elliot's "Debates on the Federal Constitution." It is said that in the preparation of the speech for issuance as a campaign document a corps of helpers spent several weeks in verifying Lincoln's historical references. He himself spent more time and thought on this speech than on any other that he had previously made.

Yet, with all the assurance that comes to one who has made adequate preparation, Lincoln mingled some diffidence, for he said on his return home to Springfield that during the address he imagined the audience saw the contrast between his Western clothes and the neat-fitting clothes of Bryant and others on the platform; he said that whenever he raised his arm to make a gesture, the collar of his coat on the right side would fly up and make him feel uncomfortable. General Stewart L. Woodford used to tell how during the address Lincoln would get hold of his suspenders on each side under his armpits and in his earnestness of talk would keep pulling his suspenders farther and farther out until he suddenly let go of them, whereupon they would spring back with a loud snap.

The *Tribune* relates that the speech excited frequent and irrepressible applause. Lincoln's occasional repetition of his text never failed to provoke a burst of cheers and audible smiles. He inserted a few homely stories into the midst of his oration, but these do not appear in the published speech. After Lincoln's oration, brief speeches were made by Horace Greeley, editor of the *Tribune*, and by several other prominent Republicans. Mr. Greeley said that the orator of the occasion was a specimen of what free labor and free expression of ideas could produce. One of the other speakers, General Nye, said that he would not allow himself to disturb the effect of the address of the evening by any remarks of his; anything he had to say would better be said on a later and more appropriate occasion. "The vast assemblage then quietly dispersed."

After the address Lincoln had supper at the Athenæum Club with several members of the Young Men's Central Republican Union, and then rode in a street car to the Astor House, where he stayed while he was in New York. It is interesting to note that the next time he came to New York he rode down Broadway standing in an open barouche drawn by four white horses, and that all the way he was cheered by the throngs in the street.

The next morning after the address at Cooper Union, the *Tribune* printed the speech in full with the introductory statement that it was on national politics. The *Times* gave almost the whole of the first page to a report of the speech and on the editorial page ran the following summary:

His text lay in the sentiment of Senator Douglas, that those who framed the Constitution understood the power of the Federal Government over the question of Slavery as well, if not better than ourselves. He agreed with Mr. Douglas on that point, and then proceeded to develop what the precise understanding of our fathers was in that particular; and, in doing so, demonstrated that only three among them had ever by word or act indicated a doubt as to the power of the Federal Government over Slavery in the Territories. Twenty-three of them had voted for bills, and Washington had signed a bill, by which Congress

exerted a directory power over Slavery in the only Territory then held by the United States. The concluding portion of the address was devoted to plain talk to the people of the South; an assurance to them that the Republican Party is the conservative party of the day, and that Republican principles in relation to slavery are the same as those believed in and acted upon by the founders of the Republic. He also counseled the Republicans to deal gently with their opponents and to remain true to their creed.

The other two leading New York dailies also gave full reports of the address.

The *Tribune* printed the following editorial:

The Speech of ABRAHAM LINCOLN at the Cooper Institute last evening was one of the happiest and most convincing political arguments ever made in this City, and was addressed to a crowded and most appreciating audience. Since the days of Clay and Webster, no man has spoken to a larger assemblage of the intellect and mental culture of our City. Mr. Lincoln is one of Nature's orators, using his rare powers solely and effectively to elucidate and to convince, though their inevitable effect is to delight and electrify as well. We present herewith a very full and accurate report of this speech; yet the tones, the gestures, the kindling eye, and the mirth-provoking look defy the reporter's skill. The vast assemblage frequently rang with cheers and shouts of applause, which were prolonged and intensified at the close. No man ever before made such an impression on his first appeal to a New York audience.

Mr. Lincoln speaks for the Republican cause to-night at Providence, R.I., and it is hoped that he will find time to speak once or more in Connecticut before he sets his face homeward.

We shall soon issue his Speech of last night in pamphlet form for cheap circulation.

ITS EFFECTIVENESS

As an orator Lincoln had an appearance, voice, and manner peculiar to himself. He was, as we have seen, six feet four inches tall, but his hearers sometimes thought he seemed seven feet tall when he raised clenched fists on high and let them sweep through the air as he denounced slavery. He was thin through the chest and somewhat stoop-shouldered. His face

was yellowish and wrinkled, large and sharp-featured. His little gray eyes, deep set under heavy brows, would flash as he roused to his subject. When he began to speak, his voice would be acute and shrilling in pitch, but would mellow into a more harmonious and pleasant sound as he continued an address. "He always stood squarely on his feet, toe even with toe," says Horace White, who was one of the best reporters of his speeches. Lincoln did not touch anything or lean on anything for support. He did not walk backward and forward on the platform. In beginning an address he looked the picture of awkwardness and diffidence, but won people nevertheless by his earnestness, his unaffected sincerity, his good humor, his plain common sense, and his irrefutable logic. Horace White says that he had heard all the great public speakers of the United States subsequent to the time of Clay and Webster, but he was sure that Lincoln would bring more men, of doubtful or hostile leanings, around to his way of thinking, by talking to them on a platform, than any other man.

Probably Lincoln's chief source of power as a speaker lay in the fact that he held always to a main line of thought and that this main line of thought was a big, underlying question of the day. Over and over again in his speeches from 1854 to 1860 he held that (1) slavery was wrong, and (2) the government had a right to control its spread into new territory. With fundamental conceptions at the base of his speeches, Lincoln had a way of building up details so that any one would have to understand the speaker's meaning. As a young man he practiced putting things to himself in different ways, stating and restating them, till he was sure they would certainly be understood. So he did in his speeches. He would put something from one angle, then look at it from another angle, and soon he had enveloped the subject. There was no escape from his plain reasoning.

This was particularly the case with the Cooper Institute speech and was a leading cause of its effectiveness. The audience

laughed aloud with joy at the successive blows by which Lincoln demolished Senator Douglas's contention, or rather made it support his own belief. Lincoln seemed like a tremendous drop hammer crushing something. First he stated the short two-line text by which Douglas supported his contention regarding Federal authority. Then Lincoln began crushing. As one reads through the relentlessly consecutive paragraphs one feels as if the drop hammer were inevitably falling on that text. The constant repetition of phrases seems like a constant falling of the hammer. At the end, the text is completely crushed. One wonders how a man of such alertness of mind as Douglas could ever have given utterance to the demolished proposition in the sense in which he used it. While uttered with the purpose of supporting the policy of allowing the choice between Slavery or No Slavery to be made by the people of a Territory, the assertion had been shown by Lincoln to mean the precise opposite, and to be a principal foundation for the essential Republican doctrine of Federal control. One of the main reasons why the Republicans held that the central government should control as to Slavery in the Territories was because the founders of the government held this opinion.

Besides framing a large topic and developing it with absolute clearness, Lincoln had other means for making his speech effective. His growth from his first political speech (in 1832) to the time of his Cooper Institute speech did not consist in developing a more effective method of going straight to the center of a topic, elaborating the topic lucidly, and carrying conviction, for Lincoln early possessed this ability. The chief point of growth is the more effective phrasing, the more precise diction, and the grace of rhythmic utterance. For further consideration of these charms of style, which added materially to the effectiveness of the speech, the student is urged to devote some time to a reading of the speech aloud. thoughtfully, after sufficient study.

On the whole it may be said in conclusion that the Cooper Institute speech was effective in that —

1. It showed extraordinary power in compact arrangement, felicitous phrasing, and precise selection of words, so that it pleased one of the most select audiences that ever heard a speech.

2. It confirmed in the minds of Lincoln's eastern hearers the favorable impression they had already formed from reading the Lincoln-Douglas debates.

3. It restated with entire clearness the fundamental Republican position on the subject of Slavery.

4. It distinctly prepared the way for Lincoln's nomination to the presidency.

USEFUL BOOKS FOR REFERENCE

1. Abraham Lincoln, by George Haven Putnam. G. P. Putnam's Sons, 1909. An appendix of this good book contains the Cooper Institute speech with annotations by C. C. Nott and Cephas Brainerd.

2. Abraham Lincoln: The True Story of a Great Life, by William H. Herndon and Jesse W. Weik, with an Introduction by Horace White. D. Appleton and Company, 1892. Two volumes. A chatty book full of personal flavor. Probably advanced high-school students would enjoy this biography better than any other of Lincoln. Herndon was for twenty years Lincoln's law partner and friend.

3. Lincoln: A History, by John G. Nicolay and John Hay. The Century Co., 1890. Ten volumes. The complete, authoritative book on Lincoln.

4. A Short Life of Abraham Lincoln, by John G. Nicolay. The Century Co., 1902.

5. The Boys' Life of Abraham Lincoln, by Helen Nicolay. The Century Co., 1908. A book of the kind that grips the attention of boys and girls from start to finish. It has excellent illustrations, including a drawing of Lincoln's invention for buoying vessels and a facsimile of the Gettysburg speech.

6. Abraham Lincoln: An Essay, by Carl Schurz. Houghton Mifflin Company, 1891. This short sketch of 117 pages was originally

published as a review of Nicolay and Hay's life of Lincoln. It includes a remarkable photograph of Lincoln probably taken in 1860.

7. Men of Our Times, or Leading Patriots of the Day, by Harriet Beecher Stowe. Hartford Publishing Co., 1868. Pages 11 through 110 are a biography of Lincoln, which ought to be printed alone in book form.

8. Eulogy on Abraham Lincoln, delivered before the Municipal Authorities of Boston, June 6, 1865, by Charles Sumner, published by Ticknor & Fields, 1865. An admirable example of this type of literature.

9. Files of the newspapers of 1860, especially the New York *Times*, *Tribune*, and *Evening Post*.

10. Complete works of Abraham Lincoln, edited by John G. Nicolay and John Hay.

LINCOLN'S ADDRESS AT COOPER INSTITUTE, NEW YORK, FEBRUARY 27, 1860

MR. PRESIDENT AND FELLOW-CITIZENS OF NEW YORK: — The facts with which I shall deal this evening are mainly old and familiar; nor is there anything new in the general use I shall make of them. If there shall be any novelty, it will be in the mode of presenting the facts, and the inferences and observations following that presentation. In his speech last autumn at Columbus, Ohio, as reported in the New York *Times*, Senator Douglas said:

> Our fathers, when they framed the government under which we live, understood this question just as well, and even better, than we do now.

I fully endorse this, and I adopt it as a text for this discourse. I so adopt it because it furnishes a precise and an agreed starting point for a discussion between Republicans and that wing of the Democracy headed by Senator Douglas. It simply leaves the inquiry: What was the understanding those fathers had of the question mentioned?

What is the frame of government under which we live? The answer must be, "The Constitution of the United States." That Constitution consists of the original, framed in 1787, and under which the present government first went into operation, and twelve subsequently framed amendments, the first ten of which were framed in 1789.

Who were our fathers that framed the Constitution? I suppose the "thirty-nine" who signed the original instrument may be fairly called our fathers who framed that part of the present government. It is almost exactly true to say they framed it,

and it is altogether true to say they fairly represented the opinion and sentiment of the whole nation at that time. Their names, being familiar to nearly all, and accessible to quite all, need not now be repeated.

I take these "thirty-nine" for the present, as being "our fathers who framed the government under which we live." What is the question which, according to the text, those fathers understood "just as well, and even better, than we do now"?

It is this: Does the proper division of local from Federal authority, or anything in the Constitution, forbid our Federal Government to control as to slavery in our Federal Territories?

Upon this, Senator Douglas holds the affirmative, and Republicans the negative. This affirmation and denial form an issue; and this issue — this question — is precisely what the text declares our fathers understood "better than we." Let us now inquire whether the "thirty-nine," or any of them, ever acted upon this question; and if they did, how they acted upon it — how they expressed that better understanding. In 1784, three years before the Constitution, the United States then owning the Northwestern Territory and no other, the Congress of the Confederation had before them the question of prohibiting slavery in that Territory; and four of the "thirty-nine" who afterward framed the Constitution were in that Congress, and voted on that question. Of these, Roger Sherman, Thomas Mifflin, and Hugh Williamson voted for the prohibition, thus showing that, in their understanding, no line dividing local from Federal authority, nor anything else, properly forbade the Federal Government to control as to slavery in Federal Territory. The other of the four, James McHenry, voted against the prohibition, showing that for some cause he thought it improper to vote for it.

In 1787, still before the Constitution, but while the convention was in session framing it, and while the Northwestern Territory still was the only Territory owned by the United States,

the same question of prohibiting slavery in the Territory again came before the Congress of the Confederation; and two more of the "thirty-nine" who afterward signed the Constitution were in that Congress, and voted on the question. They were William Blount and William Few; and they both voted for the prohibition — thus showing that, in their understanding, no line dividing local from Federal authority, nor anything else, properly forbade the Federal Government to control as to slavery in Federal Territory. This time the prohibition became a law, being part of what is now well known as the Ordinance of '87.

The question of Federal control of slavery in the Territories seems not to have been directly before the convention which framed the original Constitution; and hence it is not recorded that the "thirty-nine," or any of them, while engaged on that instrument expressed any opinion on that precise question.

In 1789, by the first Congress which sat under the Constitution, an act was passed to enforce the Ordinance of '87, including the prohibition of slavery in the Northwestern Territory. The bill for this act was reported by one of the "thirty-nine" — Thomas Fitzsimmons, then a member of the House of Representatives from Pennsylvania. It went through all its stages without a word of opposition, and finally passed both branches without ayes and nays, which is equivalent to a unanimous passage. In this Congress there were sixteen of the thirty-nine fathers who framed the original Constitution. They were:

John Langdon	William Few	Pierce Butler
Nicholas Gilman	Abraham Baldwin	Daniel Carroll
William S. Johnson	Rufus King	James Madison
Roger Sherman	William Paterson	George Clymer
Robert Morris	Richard Bassett	
Thomas Fitzsimmons	George Read	

This shows that, in their understanding, no line dividing local from Federal authority, nor anything in the Constitution, properly

forbade Congress to prohibit slavery in the Federal Territory; else both their fidelity to correct principle and their oath to support the Constitution would have constrained them to oppose the prohibition.

Again, George Washington, another of the "thirty-nine," was then President of the United States and as such approved and signed the bill, thus completing its validity as a law, and thus showing that, in his understanding, no line dividing local from Federal authority, nor anything in the Constitution, forbade the Federal Government to control as to slavery in Federal territory.

No great while after the adoption of the original Constitution, North Carolina ceded to the Federal Government the country now constituting the State of Tennessee; and a few years later Georgia ceded that which now constitutes the States of Mississippi and Alabama. In both deeds of cession it was made a condition by the ceding states that the Federal Government should not prohibit slavery in the ceded country. Besides this, slavery was then actually in the ceded country. Under these circumstances, Congress, on taking charge of these countries, did not absolutely prohibit slavery within them. But they did interfere with it — take control of it — even there, to a certain extent. In 1798 Congress organized the Territory of Mississippi. In the act of organization they prohibited the bringing of slaves into the Territory from any place without the United States, by fine, and giving freedom to slaves so brought. This act passed both branches of Congress without yeas and nays. In that Congress were three of the "thirty-nine" who framed the original Constitution. They were John Langdon, George Read, and Abraham Baldwin. They all probably voted for it. Certainly they would have placed their opposition to it upon record if, in their understanding, any line dividing local from Federal authority, or anything in the Constitution, properly forbade the Federal Government to control as to slavery in Federal territory.

In 1803 the Federal Government purchased the Louisiana country. Our former territorial acquisitions came from certain of our own states; but this Louisiana country was acquired from a foreign nation. In 1804 Congress gave a territorial organization to that part of it which now constitutes the State of Louisiana. New Orleans, lying within that part, was an old and comparatively large city. There were other considerable towns and settlements, and slavery was extensively and thoroughly intermingled with the people. Congress did not, in the Territorial Act, prohibit slavery; but they did interfere with it — take control of it — in a more marked and extensive way than they did in the case of Mississippi. The substance of the provision therein made in relation to slaves was:

1. That no slave should be imported into the territory from foreign parts.

2. That no slave should be carried into it who had been imported into the United States since the first day of May, 1798.

3. That no slave should be carried into it except by the owner and for his own use as a settler; the penalty in all the cases being a fine upon the violator of the law and freedom to the slave.

This act also was passed without ayes or nays. In the Congress which passed it there were two of the "thirty-nine." They were Abraham Baldwin and Jonathan Dayton. As stated in the case of Mississippi it is probable they both voted for it. They would not have allowed it to pass without recording their opposition to it if, in their understanding, it violated either the line properly dividing local from Federal authority, or any provision of the Constitution.

In 1819–1820 came and passed the Missouri question. Many votes were taken, by yeas and nays, in both branches of Congress, upon the various phases of the general question. Two of the "thirty-nine" — Rufus King and Charles Pinckney — were members of that Congress. Mr. King steadily voted for slavery prohibition and against all compromises, while Mr. Pinckney as

steadily voted against slavery prohibition and against all compromises. By this, Mr. King showed that, in his understanding, no line dividing local from Federal authority, nor anything in the Constitution, was violated by Congress prohibiting slavery in Federal territory; while Mr. Pinckney, by his votes, showed that, in his understanding, there was some sufficient reason for opposing such prohibition in that case.

The cases I have mentioned are the only acts of the "thirty-nine," or of any of them, upon the direct issue, which I have been able to discover.

To enumerate the persons who thus acted as being four in 1784, two in 1787, seventeen in 1789, three in 1798, two in 1804, and two in 1819–1820, there would be thirty of them. But this would be counting John Langdon, Roger Sherman, William Few, Rufus King, and George Read each twice, and Abraham Baldwin three times. The true number of those of the "thirty-nine" whom I have shown to have acted upon the question which, by the text, they understood better than we, is twenty-three, leaving sixteen not shown to have acted upon it in any way.

Here, then, we have twenty-three out of our thirty-nine fathers "who framed the government under which we live," who have, upon their official responsibility and their corporal oaths, acted upon the very question which the text affirms they "understood just as well, and even better, than we do now"; and twenty-one of them — a clear majority of the whole "thirty-nine" — so acting upon it as to make them guilty of gross political impropriety and willful perjury if, in their understanding, any proper division between local and Federal authority, or anything in the Constitution they had made themselves and sworn to support, forbade the Federal Government to control as to slavery in the Federal Territories. Thus the twenty-one acted; and, as actions speak louder than words, so actions under such responsibility speak still louder.

Two of the twenty-three voted against congressional prohibition of slavery in the Federal Territories, in the instances in which they acted upon the question. But for what reasons they so voted is not known. They may have done so because they thought a proper division of local from Federal authority, or some provision or principle of the Constitution, stood in the way; or they may, without any such question, have voted against the prohibition on what appeared to them to be sufficient grounds of expediency. No one who has sworn to support the Constitution can conscientiously vote for what he understands to be an unconstitutional measure, however expedient he may think it; but one may and ought to vote against a measure which he deems constitutional if, at the same time, he deems it inexpedient. It, therefore, would be unsafe to set down even the two who voted against the prohibition as having done so because, in their understanding, any proper division of local from Federal authority, or anything in the Constitution, forbade the Federal Government to control as to slavery in Federal territory.

The remaining sixteen of the "thirty-nine," so far as I have discovered, have left no record of their understanding upon the direct question of Federal control of slavery in the Federal Territories. But there is much reason to believe that their understanding upon that question would not have appeared different from that of their twenty-three compeers, had it been manifested at all.

For the purpose of adhering rigidly to the text, I have purposely omitted whatever understanding may have been manifested by any person, however distinguished, other than the thirty-nine fathers who framed the original Constitution; and for the same reason I have also omitted whatever understanding may have been manifested by any of the "thirty-nine" even on any other phase of the general question of slavery. If we should look into their acts and declarations on those other phases, as the foreign slave trade and the morality and policy of slavery generally, it would appear to us that on the direct question of

Federal control of slavery in Federal Territories, the sixteen, if they had acted at all, would probably have acted just as the twenty-three did. Among that sixteen were several of the most noted anti-slavery men of those times, — as Dr. Franklin, Alexander Hamilton, and Gouverneur Morris, — while there was not one now known to have been otherwise, unless it may be John Rutledge, of South Carolina.

The sum of the whole is that of our thirty-nine fathers who framed the original Constitution, twenty-one — a clear majority of the whole — certainly understood that no proper division of local from Federal authority, nor any part of the Constitution, forbade the Federal Government to control as to slavery in the Federal Territories; while all the rest had probably the same understanding. Such, unquestionably, was the understanding of our fathers who framed the original Constitution; and the text affirms that they understood the question "better than we."

But, so far, I have been considering the understanding of the question manifested by the framers of the original Constitution. In and by the original instrument, a mode was provided for amending it; and, as I have already stated, the present frame of "the government under which we live" consists of that original, and twelve amendatory articles framed and adopted since. Those who now insist that Federal control of slavery in Federal Territories violates the Constitution point us to the provisions which they suppose it thus violates; and, I understand, they all fix upon provisions in these amendatory articles, and not in the original instrument. The Supreme Court, in the Dred Scott case, plant themselves upon the fifth amendment, which provides that "no person shall be deprived of life, liberty, or property without due process of law"; while Senator Douglas and his peculiar adherents plant themselves upon the tenth amendment, providing that "the powers not delegated to the United States by the Constitution are reserved to the States respectively, or to the people."

Now, it so happens that these amendments were framed by the first Congress which sat under the Constitution — the identical Congress which passed the act already mentioned, enforcing the prohibition of slavery in the Northwestern Territory. Not only was it the same Congress, but they were the identical, same individual men who, at the same session, and at the same time within the session, had under consideration, and in progress toward maturity, these constitutional amendments, and this act prohibiting slavery in all the territory the nation then owned. The constitutional amendments were introduced before, and passed after, the act enforcing the Ordinance of '87; so that, during the whole pendency of the act to enforce the Ordinance, the constitutional amendments were also pending.

That Congress, consisting in all of seventy-six members, including sixteen of the framers of the original Constitution, as before stated, were pre-eminently our fathers who framed that part of "the Government under which we live," which is now claimed as forbidding the Federal Government to control slavery in the Federal Territories.

Is it not a little presumptuous in any one at this day to affirm that the two things which that Congress deliberately framed, and carried to maturity at the same time, are absolutely inconsistent with each other? And does not such affirmation become impudently absurd when coupled with the other affirmation, from the same mouth, that those who did the two things alleged to be inconsistent, understood whether they really were inconsistent better than we — better than he who affirms that they were inconsistent?

It is surely safe to assume that the thirty-nine framers of the original Constitution, and the seventy-six members of the Congress which framed the amendments thereto, taken together, do certainly include those who may be fairly called "our fathers who framed the government under which we live." And so assuming, I defy any man to show that any one of them ever, in his whole

life, declared that, in his understanding, any proper division of local from Federal authority, or any part of the Constitution, forbade the Federal Government to control as to slavery in the Federal Territories. I go a step further. I defy any one to show that any living man in the whole world ever did, prior to the beginning of the present century (and I might almost say prior to the beginning of the last half of the present century), declare that, in his understanding, any proper division of local from Federal authority, or any part of the Constitution, forbade the Federal Government to control as to slavery in the Federal Territories. To those who now so declare I give not only "our fathers who framed the Government under which we live," but with them all other living men within the century in which it was framed, among whom to search, and they shall not be able to find the evidence of a single man agreeing with them.

Now, and here, let me guard a little against being misunderstood. I do not mean to say we are bound to follow implicitly in whatever our fathers did. To do so would be to discard all the lights of current experience — to reject all progress, all improvement. What I do say is, that if we would supplant the opinions and policy of our fathers in any case, we should do so upon evidence so conclusive and argument so clear, that even their great authority, fairly considered and weighed, cannot stand; and most surely not in a case whereof we ourselves declare they understood the question better than we.

If any man at this day sincerely believes that a proper division of local from Federal authority, or any part of the Constitution, forbids the Federal Government to control as to slavery in the Federal Territories, he is right to say so and to enforce his position by all truthful evidence and fair argument which he can. But he has no right to mislead others, who have less access to history, and less leisure to study it, into the false belief that "our fathers who framed the Government under which we live" were of the same opinion — thus substituting falsehood and deception

for truthful evidence and fair argument. If any man at this day sincerely believes "our fathers who framed the Government under which we live" used and applied principles, in other cases, which ought to have led them to understand that a proper division of local from Federal authority, or some part of the Constitution, forbids the Federal Government to control as to slavery in the Federal Territories, he is right to say so. But he should, at the same time, brave the responsibility of declaring that, in his opinion, he understands their principles better than they did themselves; and especially should he not shirk that responsibility by asserting that they "understood the question just as well, and even better, than we do now."

But enough! Let all who believe that "our fathers who framed the government under which we live understood this question just as well, and even better, than we do now," speak as they spoke, and act as they acted upon it. This is all Republicans ask — all Republicans desire — in relation to slavery. As those fathers marked it, so let it be again marked, as an evil not to be extended, but to be tolerated and protected only because of and so far as its actual presence among us makes that toleration and protection a necessity. Let all the guaranties those fathers gave it be not grudgingly, but fully and fairly, maintained. For this Republicans contend, and with this, so far as I know or believe, they will be content.

And now, if they would listen — as I suppose they will not — I would address a few words to the Southern people.

I would say to them: You consider yourselves a reasonable and a just people; and I consider that in the general qualities of reason and justice you are not inferior to any other people. Still, when you speak of us Republicans, you do so only to denounce us as reptiles, or, at the best, as no better than outlaws. You will grant a hearing to pirates or murderers, but nothing like it to "Black Republicans." In all your contentions with one another, each of you deems an unconditional condemnation

of "Black Republicanism" as the first thing to be attended to. Indeed, such condemnation of us seems to be an indispensable prerequisite — license, so to speak — among you to be admitted or permitted to speak at all. Now, can you, or not, be prevailed upon to pause and to consider whether this is quite just to us, or even to yourselves? Bring forward your charges and specifications, and then be patient long enough to hear us deny or justify.

You say we are sectional. We deny it. That makes an issue; and the burden of proof is upon you. You produce your proof; and what is it? Why, that our party has no existence in your section — gets no votes in your section. The fact is substantially true; but does it prove the issue? If it does, then in case we should, without change of principle, begin to get votes in your section, we should thereby cease to be sectional. You cannot escape this conclusion; and yet, are you willing to abide by it? If you are, you will probably soon find that we have ceased to be sectional, for we shall get votes in your section this very year. You will then begin to discover, as the truth plainly is, that your proof does not touch the issue. The fact that we get no votes in your section is a fact of your making, and not of ours. And if there be fault in that fact, that fault is primarily yours, and remains so until you show that we repel you by some wrong principle or practice. If we do repel you by any wrong principle or practice, the fault is ours; but this brings you to where you ought to have started — to discussion of the right or wrong of our principle. If our principle, put in practice, would wrong your section for the benefit of ours, or for any other object, then our principle, and we with it, are sectional, and are justly opposed and denounced as such. Meet us, then, on the question of whether our principle, put in practice, would wrong your section; and so meet us as if it were possible that something may be said on our side. Do you accept the challenge? No? Then you really believe that the principle which "our fathers

who framed the Government under which we live" thought so clearly right as to adopt it, and indorse it again and again, upon their official oaths, is in fact so clearly wrong as to demand your condemnation without a moment's consideration.

Some of you delight to flaunt in our faces the warning against sectional parties given by Washington in his Farewell Address. Less than eight years before Washington gave that warning, he had, as President of the United States, approved and signed an act of Congress enforcing the prohibition of slavery in the Northwestern Territory, which act embodied the policy of the Government upon that subject up to and at the very moment he penned that warning; and about one year after he penned it, he wrote Lafayette that he considered that prohibition a wise measure, expressing in the same connection his hope that we should at some time have a confederacy of free states.

Bearing this in mind, and seeing that sectionalism has since arisen upon this same subject, is that warning a weapon in your hands against us, or in our hands against you? Could Washington himself speak, would he cast the blame of that sectionalism upon us, who sustain his policy, or upon you, who repudiate it? We respect that warning of Washington, and we commend it to you, together with his example pointing to the right application of it.

But you say you are conservative — eminently conservative — while we are revolutionary, destructive, or something of the sort. What is conservatism? Is it not adherence to the old and tried, against the new and untried? We stick to, contend for, the identical old policy on the point in controversy which was adopted by "our fathers who framed the Government under which we live"; while you with one accord reject, and scout, and spit upon that old policy, and insist upon substituting something new. True, you disagree among yourselves as to what that substitute shall be. You are divided on new propositions and plans, but you are unanimous in rejecting and denouncing

the old policy of the fathers. Some of you are for reviving the foreign slave trade; some for a congressional slave-code for the Territories; some for Congress forbidding the Territories to prohibit slavery within their limits; some for maintaining slavery in the Territories through the judiciary; some for the "gur-reat pur-rinciple" that "if one man would enslave another, no third man should object," fantastically called "Popular Sovereignty"; but never a man among you is in favor of Federal prohibition of slavery in Federal Territories, according to the practice of "our fathers who framed the Government under which we live." Not one of all your various plans can show a precedent or an advocate in the century within which our Government originated. Consider, then, whether your claim of conservatism for yourselves, and your charge of destructiveness against us, are based on the most clear and stable foundations.

Again, you say we have made the slavery question more prominent than it formerly was. We deny it. We admit that it is more prominent, but we deny that we made it so. It was not we, but you, who discarded the old policy of the fathers. We resisted, and still resist, your innovation; and thence comes the greater prominence of the question. Would you have that question reduced to its former proportions? Go back to that old policy. What has been will be again, under the same conditions. If you would have the peace of the old times, readopt the precepts and policy of the old times.

You charge that we stir up insurrections among your slaves. We deny it; and what is your proof? Harper's Ferry! John Brown!! John Brown was no Republican; and you have failed to implicate a single Republican in his Harper's Ferry enterprise. If any member of our party is guilty in that matter, you know it, or you do not know it. If you do know it, you are inexcusable for not designating the man and proving the fact. If you do not know it, you are inexcusable to assert it, and especially to persist in the assertion after you

have tried and failed to make the proof. You need not be told that persisting in a charge which one does not know to be true, is simply malicious slander.

Some of you admit that no Republican designedly aided or encouraged the Harper's Ferry affair, but still insist that our doctrines and declarations necessarily lead to such results. We do not believe it. We know we hold no doctrine, and make no declaration, which were not held to and made by "our fathers who framed the Government under which we live." You never dealt fairly by us in relation to this affair. When it occurred, some important state elections were near at hand, and you were in evident glee with the belief that, by charging the blame upon us, you could get an advantage of us in those elections. The elections came, and your expectations were not quite fulfilled. Every Republican knew that, as to himself at least, your charge was a slander, and he was not much inclined by it to cast his vote in your favor. Republican doctrines and declarations are accompanied with a continual protest against any interference whatever with your slaves, or with you about your slaves. Surely, this does not encourage them to revolt. True, we do, in common with "our fathers who framed the Government under which we live," declare our belief that slavery is wrong; but the slaves do not hear us declare even this. For anything we say or do, the slaves would scarcely know there is a Republican party. I believe they would not, in fact, generally know it but for your misrepresentations of us in their hearing. In your political contests among yourselves, each faction charges the other with sympathy with Black Republicanism; and then, to give point to the charge, defines Black Republicanism to simply be insurrection, blood, and thunder among the slaves.

Slave insurrections are no more common now than they were before the Republican party was organized. What induced the Southampton insurrection, twenty-eight years ago, in which at least three times as many lives were lost as at Harper's Ferry?

You can scarcely stretch your very elastic fancy to the conclusion that Southampton was "got up by Black Republicanism." In the present state of things in the United States, I do not think a general, or even a very extensive, slave insurrection is possible. The indispensable concert of action cannot be obtained. The slaves have no means of rapid communication; nor can incendiary freemen, black or white, supply it. The explosive materials are everywhere in parcels; but there neither are, nor can be supplied, the indispensable connecting trains.

Much is said by Southern people about the affection of slaves for their masters and mistresses; and a part of it, at least, is true. A plot for an uprising could scarcely be devised and communicated to twenty individuals before some one of them, to save the life of a favorite master or mistress, would divulge it. This is the rule; and the slave revolution in Hayti was not an exception to it, but a case occurring under peculiar circumstances. The gunpowder plot of British history, though not connected with slaves, was more in point. In that case, only about twenty were admitted to the secret; and yet one of them, in his anxiety to save a friend, betrayed the plot to that friend, and, by consequence, averted the calamity. Occasional poisonings from the kitchen, and open or stealthy assassinations in the field, and local revolts extending to a score or so, will continue to occur as the natural results of slavery; but no general insurrection of slaves, as I think, can happen in this country for a long time. Whoever much fears, or much hopes, for such an event will be alike disappointed.

In the language of Mr. Jefferson, uttered many years ago, "It is still in our power to direct the process of emancipation and deportation peaceably, and in such slow degrees, as that the evil will wear off insensibly; and their places be, *pari passu*, filled up by free white laborers. If, on the contrary, it is left to force itself on, human nature must shudder at the prospect held up."

Mr. Jefferson did not mean to say, nor do I, that the power of emancipation is in the Federal Government. He spoke of Virginia; and, as to the power of emancipation, I speak of the slaveholding states only.

The Federal Government, however, as we insist, has the power of restraining the extension of the institution — the power to insure that a slave insurrection shall never occur on any American soil which is now free from slavery.

John Brown's effort was peculiar. It was not a slave insurrection. It was an attempt by white men to get up a revolt among slaves, in which the slaves refused to participate. In fact, it was so absurd that the slaves, with all their ignorance, saw plainly enough it could not succeed. That affair, in its philosophy, corresponds with the many attempts, related in history, at the assassination of kings and emperors. An enthusiast broods over the oppression of a people till he fancies himself commissioned by Heaven to liberate them. He ventures the attempt, which ends in little else than in his own execution. Orsini's attempt on Louis Napoleon, and John Brown's attempt at Harper's Ferry, were, in their philosophy, precisely the same. The eagerness to cast blame on old England in the one case, and on New England in the other, does not disprove the sameness of the two things.

And how much would it avail you, if you could, by the use of John Brown, Helper's book, and the like, break up the Republican organization? Human action can be modified to some extent, but human nature cannot be changed. There is a judgment and a feeling against slavery in this nation, which cast at least a million and a half of votes. You cannot destroy that judgment and feeling — that sentiment — by breaking up the political organization which rallies around it. You can scarcely scatter and disperse an army which has been formed into order in the face of your heaviest fire; but if you could, how much would you gain by forcing the sentiment which created it out of

the peaceful channel of the ballot box into some other channel? What would that other channel probably be? Would the number of John Browns be lessened or enlarged by the operation?

But you will break up the Union rather than submit to a denial of your constitutional rights.

That has a somewhat reckless sound; but it would be palliated, if not fully justified, were we proposing, by the mere force of numbers, to deprive you of some right plainly written down in the Constitution. But we are proposing no such thing.

When you make these declarations you have a specific and well-understood allusion to an assumed constitutional right of yours to take slaves into the Federal Territories, and to hold them there as property. But no such right is specifically written in the Constitution. That instrument is literally silent about any such right. We, on the contrary, deny that such a right has any existence in the Constitution, even by implication.

Your purpose, then, plainly stated, is that you will destroy the Government, unless you be allowed to construe and force the Constitution as you please, on all points in dispute between you and us. You will rule or ruin in all events.

This, plainly stated, is your language. Perhaps you will say the Supreme Court has decided the disputed constitutional question in your favor. Not quite so. But waiving the lawyer's distinction between dictum and decision, the court has decided the question for you in a sort of way. The court has substantially said, it is your constitutional right to take slaves into the Federal Territories, and to hold them there as property.

When I say the decision was made in a sort of way, I mean it was made in a divided court, by a bare majority of the judges, and they not quite agreeing with one another in the reasons for making it; that it was so made that its avowed supporters disagree with one another about its meaning, and that it was mainly based upon a mistaken statement of fact — the statement

in the opinion that "the right of property in a slave is distinctly and expressly affirmed in the Constitution."

An inspection of the Constitution will show that the right of property in a slave is not "distinctly and expressly affirmed" in it. Bear in mind, the judges do not pledge their judicial opinion that such right is impliedly affirmed in the Constitution; but they pledge their veracity that it is "distinctly and expressly" affirmed there — "distinctly," that is, not mingled with anything else — "expressly," that is, in words meaning just that, without the aid of any inference, and susceptible of no other meaning.

If they had only pledged their judicial opinion that such right is affirmed in the instrument by implication, it would be open to others to show that neither the word "slave" nor "slavery" is to be found in the Constitution, nor the word "property" even, in any connection with language alluding to the things slave or slavery; and that wherever in that instrument the slave is alluded to, he is called a "person"; and wherever his master's legal right in relation to him is alluded to, it is spoken of as "service or labor which may be due" — as a debt payable in service or labor. Also it would be open to show, by contemporaneous history, that this mode of alluding to slaves and slavery, instead of speaking of them, was employed on purpose to exclude from the Constitution the idea that there could be property in man.

To show all this is easy and certain.

When this obvious mistake of the judges shall be brought to their notice, is it not reasonable to expect that they will withdraw the mistaken statement, and reconsider the conclusion based upon it?

And then it is to be remembered that "our fathers who framed the Government under which we live" — the men who made the Constitution — decided this same constitutional question in our favor long ago: decided it without a division among themselves when making the decision; without division

among themselves about the meaning of it after it was made, and so far as any evidence is left, without basing it upon any mistaken statement of facts.

Under all these circumstances, do you really feel yourself justified to break up this Government unless such a court decision as yours is shall be at once submitted to as a conclusive and final rule of political action?

But you will not abide the election of a Republican president! In that supposed event, you say, you will destroy the Union; and then, you say, the great crime of having destroyed it will be upon us!

That is cool. A highwayman holds a pistol to my ear and mutters through his teeth, "Stand and deliver, or I shall kill you, and then you will be a murderer!"

To be sure, what the robber demanded of me — my money — was my own; and I had a clear right to keep it; but it was no more my own than my vote is my own; and the threat of death to me, to extort my money, and the threat of destruction to the Union, to extort my vote, can scarcely be distinguished in principle.

A few words now to Republicans. It is exceedingly desirable that all parts of this great confederacy shall be at peace and in harmony one with another. Let us Republicans do our part to have it so. Even though much provoked, let us do nothing through passion and ill temper. Even though the Southern people will not so much as listen to us, let us calmly consider their demands, and yield to them if, in our deliberate view of our duty, we possibly can. Judging by all they say and do, and by the subject and nature of their controversy with us, let us determine, if we can, what will satisfy them.

Will they be satisfied if the Territories be unconditionally surrendered to them? We know they will not. In all their present complaints against us, the Territories are scarcely mentioned. Invasions and insurrections are the rage now. Will it satisfy

them if in the future we have nothing to do with invasions and insurrections? We know it will not. We so know, because we know we never had anything to do with invasions and insurrections; and yet this total abstaining does not exempt us from the charge and the denunciation.

The question recurs, What will satisfy them? Simply this: we must not only let them alone, but we must somehow convince them that we do let them alone. This, we know by experience, is no easy task. We have been so trying to convince them from the very beginning of our organization, but with no success. In all our platforms and speeches we have constantly protested our purpose to let them alone; but this has had no tendency to convince them. Alike unavailing to convince them is the fact that they have never detected a man of us in any attempt to disturb them.

These natural and apparently adequate means all failing, what will convince them? This, and this only: cease to call slavery *wrong*, and join them in calling it *right*. And this must be done thoroughly — done in *acts* as well as in *words*. Silence will not be tolerated — we must place ourselves avowedly with them. Senator Douglas's new sedition law must be enacted and enforced, suppressing all declarations that slavery is wrong, whether made in politics, in presses, in pulpits, or in private. We must arrest and return their fugitive slaves with greedy pleasure. We must pull down our Free-State constitutions. The whole atmosphere must be disinfected from all taint of opposition to slavery, before they will cease to believe that all their troubles proceed from us.

I am quite aware they do not state their case precisely in this way. Most of them would probably say to us, "Let us alone; do nothing to us, and say what you please about slavery." But we do let them alone, — have never disturbed them, — so that, after all, it is what we say which dissatisfies them. They will continue to accuse us of doing, until we cease saying.

I am also aware they have not as yet in terms demanded the overthrow of our Free-State constitutions. Yet those constitutions declare the wrong of slavery with more solemn emphasis than do all other sayings against it; and when all these other sayings shall have been silenced, the overthrow of these constitutions will be demanded, and nothing be left to resist the demand. It is nothing to the contrary that they do not demand the whole of this just now. Demanding what they do and for the reason they do, they can voluntarily stop nowhere short of this consummation. Holding as they do that slavery is morally right and socially elevating, they cannot cease to demand a full national recognition of it as a legal right and a social blessing.

Nor can we justifiably withhold this on any ground save our conviction that slavery is wrong. If slavery is right, all words, acts, laws, and constitutions against it are themselves wrong, and should be silenced and swept away. If it is right, we cannot justly object to its nationality — its universality; if it is wrong, they cannot justly insist upon its extension — its enlargement. All they ask we could readily grant, if we thought slavery right; all we ask they could as readily grant, if they thought it wrong. Their thinking it right and our thinking it wrong is the precise fact upon which depends the whole controversy. Thinking it right, as they do, they are not to blame for desiring its full recognition as being right; but thinking it wrong, as we do, can we yield to them? Can we cast our votes with their view, and against our own? In view of our moral, social, and political responsibilities, can we do this?

Wrong as we think slavery is, we can yet afford to let it alone where it is, because that much is due to the necessity arising from its actual presence in the nation; but can we, while our votes will prevent it, allow it to spread into the national Territories, and to overrun us here in these free states? If our sense of duty forbids this, then let us stand by our duty fearlessly and effectively. Let us be diverted by none of those sophistical

contrivances wherewith we are so industriously plied and belabored — contrivances such as groping for some middle ground between the right and the wrong: vain as the search for a man who should be neither a living man nor a dead man; such as a policy of "don't care" on a question about which all true men do care; such as Union appeals beseeching true Union men to yield to Disunionists, reversing the divine rule and calling not the sinners but the righteous to repentance; such as invocations to Washington, imploring men to unsay what Washington said and undo what Washington did.

Neither let us be slandered from our duty by false accusations against us, nor frightened from it by menaces of destruction to the government, nor of dungeons to ourselves. Let us have faith that right makes might, and in that faith let us to the end dare to do our duty as we understand it.

COMMENTS, TOPICS, AND QUESTIONS ON LINCOLN'S ADDRESS AT COOPER INSTITUTE

1. To C. C. Nott, who was preparing a revised edition of the Cooper Institute speech, Lincoln wrote that he was "not much of a literary man." How far do you consider Lincoln's opinion of himself justified?

2. The Bible, "Æsop's Fables," "Robinson Crusoe," and "Pilgrim's Progress" were Lincoln's friends. In what respects are a few books that are universally acknowledged to be masterpieces of more value to a person who reads them thoroughly than many books which are merely acquaintances rather than real friends?

3. What are the main points in Lincoln's Cooper Institute speech?

4. Where in the speech do you suppose it was that Lincoln raised a laugh by remarking parenthetically that he had "never known of a man who had been able to whip his wife into loving him"?

5. If you own a copy of the speech, write in it "Applause" at the places where you think the speech was probably applauded when first delivered. Give your reasons for each selection that you make.

6. In a letter to C. C. Nott, Lincoln held that the word "court" properly governed the plural "have." What are your reasons for agreeing or disagreeing with Lincoln in this point of grammar?

7. What was Cooper Institute?

8. What persons of your neighborhood heard Lincoln speak?

9. What light on Lincoln's character is thrown by Henry E. Wing in his pamphlet, "When Lincoln Kissed Me," published by Eaton & Mains?

10. Why do travelers go far out of their way in order to see in the Leland Hotel, Springfield, Illinois, the desk on which Lincoln wrote his first inaugural address?

11. Point out what trait of Lincoln is shown by the following anecdote told by J. M. Buckley, June 26, 1913:

When I lived in Dover, Abraham Lincoln visited the city. Ostensibly he came to that part of the country to place his son at school in Phillips Exeter Academy. In addition he took occasion to spread his sentiments and familiarize his personality throughout New England. At the depot as Lincoln stepped off the car several hundred people were waiting to see him. Looking around, Lincoln saw a man of great height. He walked quickly to him, turned his back, and straightened up. The citizen took the challenge. Lincoln in his boots stood six feet four inches, but the New Hampshire man unrolled himself till his head was six feet six inches above the platform. Lincoln joined heartily in the laugh of the crowd.

12. In the following list of notable orations, point out those by speakers contemporary with Lincoln:

Demosthenes: On the Crown
Cranmer: On the Eve of his Execution
Cromwell: On the Opening of Parliament
Sidney: Speech on the Scaffold
Chesterfield: Against the Gin Bill
Chatham: On the Right to Tax America
Pitt: War in America Denounced
Fox: British Defeat in America
Bancroft: The People, in Art, Government, and Religion
Calhoun: On the Compromise of 1850
Webster: First Bunker Hill Monument Oration
Burke: Conciliation with America

Sheridan: Warren Hastings
Wendell Phillips: On the Murder of Lovejoy
Rufus Choate: Eulogy of Webster
Sumner: The Crime against Kansas
Seward: The Irrepressible Conflict
Douglas: Speeches in Senatorial Campaign
Blaine: On the Death of Garfield
Cleveland: First Inaugural Address
Grady: The Old South and the New
Reed: Speech closing Tariff Debate
Beecher: Speech in Liverpool
Bryan: Crown of Thorns Speech
Cicero: Against Catiline

13. What reasons had Lincoln for holding that the framers of the Constitution believed slavery to be in the course of ultimate extinction?

14. Judge Douglas held that the reason why Ohio was free was not because the Ordinance of 1787 prohibited slavery northwest of the Ohio River, but because Ohio chose to make her own laws. In his Columbus speech he roused his audience to fervid enthusiasm by exclaiming, "Gentlemen of Ohio, you are a free state because you chose to be free." Point out the clash between Lincoln's views and Douglas's with regard to the Ordinance of 1787.

15. Observe Lincoln's adroitness in argument on page 73, where, when the hearer expects the sentence to be filled out by the words "a line dividing local from Federal authority," the speaker substitutes instead the words "some sufficient reason for opposing such prohibition in that case." What other examples of especial ingenuity in argument do you find in the speech?

16. Every one agrees that Lincoln's diction is usually simple. Compile a list of difficult words that you find in this address.

17. What sentences of the address seem to you like hinges or bridges connecting main parts of the thought?

18. Which paragraph requires two or three readings in order to be entirely clear to you?

19. Prepare a brief of the speech, using as the basis for main divisions these points, which you are to express in sentence form:

a. The right of the Federal Government to control as to slavery in Federal Territories.

b. Lincoln's answer to the charges brought by the Southern people against the Republicans.

c. Lincoln's advice to the Republicans.

20. What does the name "John Brown" mean to you?

21. Note the figure of speech in the following and find other similarly lucid figures: "The explosive materials are everywhere in parcels; but there neither are, nor can be supplied, the indispensable connecting trains."

22. In 1857, Hinton Rowan Helper published a severe criticism of the slavery system. His book, "The Impending Crisis of the South," is referred to by Lincoln on page 84. The book had an enormous sale.

23. Note the colloquial omission of "that" in such sentences as the following: "We know they will not." What seems to you to be the general tone of the speech — easy and informal or stiff and formal?

24. Comment on or explain the following: *Northwestern Territory*, *Missouri Compromise*, *corporal oath*, *Dred Scott case*, *burden of proof*, *Farewell Address*, *Harper's Ferry*, *Gunpowder Plot*, *pari passu*, *Orsini's attempt on Louis Napoleon*, *sedition law.*

25. Where and what does Lincoln quote from the Bible?

26. Prepare a speech on the right or wrong of one of the following: industrial slavery, war, capital punishment, strikes.

27. Write and prepare to speak a eulogy of Lincoln, McKinley, or Cleveland.

28. Give your candid opinion as to the relative merits of Lincoln and Douglas as orators, so far as you have formed an opinion from their speeches given in this volume.

29. In the portion of his speech in which he addressed "a few words to the Southern people," Lincoln said, "Still, when you speak of us Republicans, you do so only to denounce us as reptiles." What have you observed to be the present feeling between people of the South and of the North? What touching illustrations of the present feeling were furnished by incidents that took place during the summer of 1913?

30. What is the greatest problem which both the North and the South have now to solve? What suggestions have you to offer for its solution?

31. What was the great problem which people of Lincoln's time had to solve? What was Lincoln's solution of the problem?

NOTES

(The figures in heavy-faced type refer to pages, the figures in lighter type to lines.)

MACAULAY'S COPYRIGHT SPEECHES

18 1 Sir: see p. 46. — **7 friend:** Thomas Noon Talfourd, called Sergeant Talfourd. See pp. 9–11. Talfourd, besides being a distinguished lawyer and a member of Parliament, contributed essays to the *Edinburgh Review* and wrote a successful tragedy. — 24 **act of attainder:** a bill passed by Parliament extinguishing a person's civil rights and pronouncing sentence of death against him.

19 10 **Paley:** William Paley was an eighteenth-century writer whose books on philosophy and on the evidences of Christianity were all imbued with his fundamental maxim that whatever is expedient is right. See Lippincott's "Pronouncing Biographical Dictionary." — 23 **modes of succession:** note that Macaulay explains a number of systems of inheritance, the first (l. 24) being primogeniture; the second (l. 25) being gavelkind; the third (l. 26) being borough English. The point that the speaker is trying to make is that the disposition of property at death is something to be settled by the law established in different sections of the kingdom; there is no natural right of inheritance, no divine right. So the matter of copyright after the death of an author is something to be settled by Parliament as seems best to that body, not according to any divine law, but according to what seems most expedient. — 32 **intestate:** not having made a will.

21 32 **Mæcenas:** Mæcenas and Pollio were the patrons of Horace, Virgil, and other Roman authors; the Medici family were the patrons of poets, architects, painters, and sculptors at Florence, Italy, in the fifteenth and sixteenth centuries; Louis the Fourteenth was the patron of French writers of the seventeenth century; Lord Halifax was the patron of Addison and Steele in the early eighteenth century in England; Lord Oxford was the patron of Pope and Swift.

23 15 **East India Company's monopoly**: see p. 4, ll. 28–34 of Macaulay's "Essays on Clive and Hastings" (Ginn and Company's Standard English Classics).

24 17 **Prince Esterhazy**: Paul Antony Esterhazy de Galantha represented Austria at the court of London from 1830 to 1838, and so his name was familiar to Macaulay's hearers. Esterhazy owned larger estates in land than any other subject of Austria.

25 4 **Juvenal**: the greatest Roman satirical poet, two of whose sixteen powerful satires Dr. Samuel Johnson imitated in his poems entitled "London" and "Vanity of Human Wishes."

26 21 **Blenheim**: Blenheim Park is a magnificent English estate given by Parliament to the Duke of Marlborough for his victories over the French, especially the battle of Blenheim, which took place August 13, 1704. See Baedeker's "Great Britain," a very useful reference book. — **Strathfieldsaye**: the estate of the Duke of Wellington, who defeated Napoleon at the battle of Waterloo in June, 1815.

27 12 **Cowley's Poems**: Abraham Cowley (1618–1667) was more admired by his contemporaries than any other poet of his time, not excepting John Milton, who is now ranked high while Cowley is almost forgotten. — 13 **Pope**: Macaulay says of Alexander Pope in another essay, "He was a great master of invective and sarcasm. He could dissect a character in terse and sonorous couplets brilliant with antithesis." Pope's question about Cowley occurs in one of his imitations of the Roman poet Horace. See also **39** 12. — 16 **Bolingbroke**: a brilliant but superficial English statesman and author. An edition of his works in five volumes was published by a certain David Mallet in 1754. By 1814, when according to Talfourd's copyright bill the copyright on these books would have expired (sixty years having elapsed since the author's death), Bolingbroke's works were no longer in demand. — 18 **Paternoster Row**: if you have a Bible published in England, see whether or not the publisher's address is given as Paternoster Row, which has long been the center of the London book-publishing business. Consult Baedeker's "London." — 19 **Hayley**: Southey once said of William Hayley, an English poet whose work is feeble in the extreme, "Everything about that man is good except his poetry." Hayley's "Triumphs of Temper" was published in 1781. — 31 **Milton's granddaughter**: the history of the copyright of Milton's "Paradise Lost" is given on p. 8. The Tonson to whom Macaulay refers on p. 28, l. 19, was a later owner of the copyright than Simmons, the original purchaser. Note on p. 15 how the

most recent copyright law tries to prevent such a state of poverty as that to which Milton's granddaughter, Mrs. Elizabeth Foster, was reduced. Garrick's benefit performance of "Comus" for her was given April 5, 1750, and brought her £130. She died May 9, 1754.

29 18 "Tom Jones": Henry Fielding's greatest novel. Two other novels by Fielding, "Joseph Andrews" and "Amelia" are mentioned on p. 42, l. 34, and p. 43, l. 1.

30 1 Wilberforce: the religious treatise which Macaulay speaks of as "celebrated" was entitled "A Practical View of the Prevailing Religious System of Professed Christians contrasted with Real Christianity," was published in 1797, and by 1826 had been issued in fifteen editions in England and twenty-five in the United States. William Wilberforce gave much money to the poor, and was an ardent supporter of the movement to abolish slavery by act of Parliament.

31 11 "Clarissa": one of Samuel Richardson's best novels was "Clarissa Harlowe." Another of his novels, "Sir Charles Grandison," is referred to on p. 42, l. 33. — **28 Camden's "Britannia":** William Camden (1551–1623), master of Westminster School and founder of the Camden professorship of history at Oxford University, published in Latin in 1586 a celebrated antiquarian work entitled "Britannia." It is still of use to historians.

33 21 piratical booksellers: persons who publish books regardless of the owner of the copyright.

35 1 Mr. Greene: see p. 12. — **2 my noble friend:** see pp. 11–15, for the substance of Lord Mahon's remarks.

38 1 "Persuasion": published in 1818, the year after the death of its author, Miss Jane Austen. Other novels by this writer are "Sense and Sensibility," "Pride and Prejudice," "Mansfield Park," "Emma," and "Northanger Abbey." Professor Goldwin Smith said of "Persuasion," "Though as a whole not so well constructed as others of Jane Austen's novels, it may be said to contain the finest touches of her art." See "Jane Austen: Her Contemporaries and Herself," by Walter Herries Pollock (published by Longmans, Green, & Co.) for an interesting comparison of Miss Austen and Madame D'Arblay. — **5 "Evelina":** published in 1778 when the author, Miss Frances Burney, was twenty-six years old. Miss Burney married Count D'Arblay in 1793, and so is referred to by Macaulay as Madame D'Arblay. She died in 1840. In 1843 Macaulay published in the *Edinburgh Review* an essay on the life of Madame D'Arblay.

39 8 **Flecknoe:** a rather vain and stupid scribbler who was contemporary with Dryden. Dryden chose this writer's name with the patronymic *Mac* as the title of a satire, "MacFlecknoe," in which another contemporary poet Shadwell and other minor writers of the time were bitterly satirized. Flecknoe wrote several unsuccessful plays; for example, "Fashionable Young Ladies" ("Damoiselles à la Mode"), published in 1667. — **Settle:** Elkanah Settle (1648–1724) won reputation in his time by a rimed tragedy, "The Empress of Morocco," which Dryden considered, as did Macaulay, inferior work. He was satirized by Dryden in "Absalom and Achitophel," and by Pope in "Dunciad."

40 32 **Schiller:** Johann Christoph Friedrich von Schiller is known as the great national poet of Germany. He wrote the "Robbers" in 1777, when he was only eighteen years old. "Wilhelm Tell," his most popular drama, was published in 1804. — 33 **Goethe:** Johann Wolfgang von Goethe, the most illustrious German writer, published his novel, "Sorrows of Young Werther" (which Macaulay in his speech referred to as "Sorrows of Werther"), in 1774. His masterpiece, the tragedy of "Faust," was published in two parts, the first in 1806 and the second in 1830. It is said that for more than thirty years before the first part was published Goethe had been turning the subject over and over in his mind. Goethe's literary achievements are perhaps Macaulay's finest example to prove his contention that the greatest works of genius are produced by men in their mature years.

41 25 **no work of the imagination:** Macaulay here leaves out of account the poetry of some of the romantic poets of England, for instance, "The Ancient Mariner," by Coleridge, written when he was considerably under thirty-five.

43 7 **the committee:** see pp. 12–15.

LINCOLN'S ADDRESS AT COOPER INSTITUTE

68 1 **Mr. President**: William Cullen Bryant presided over the meeting. See p. 60. — 6 **speech last autumn at Columbus**: see pp. 55–58. — 24 **the "thirty-nine"**: George Washington, President and deputy from Virginia; New Hampshire — John Langdon and Nicholas Gilman; Massachusetts — Nathaniel Gorham and Rufus King; Connecticut — William Samuel Johnson and Roger Sherman; New York — Alexander Hamilton; New Jersey — William Livingston, David Brearley, William Paterson, Jonathan Dayton; Pennsylvania — Benjamin Franklin, Thomas Mifflin, Robert Morris, George Clymer, Thomas Fitzsimmons, Jared Ingersoll, James Wilson, Gouverneur Morris; Delaware — George Read, Gunning Bedford, Jr., John Dickinson, Richard Bassett, Jacob Broom; Maryland — James McHenry, Daniel of St. Thomas Jenifer, Daniel Carroll; Virginia — John Blair and James Madison, Jr.; North Carolina — William Blount, Richard Dobbs Spaight, Hugh Williamson; South Carolina — John Rutledge, Charles Cotesworth Pinckney, Charles Pinckney, Pierce Butler; Georgia — William Few and Abraham Baldwin.

69 9 **It is this**: by reference to the extracts from Senator Douglas's Columbus speech, note that the senator never explicitly stated the question as sharply as Lincoln states it. Consider whether or not you think Lincoln has stated the question exactly as it formed itself in Douglas's own mind.

70 11 **Ordinance of '87**: see p. 92, topic 14, and H. von Holst's "Constitutional and Political History of the United States." The plan for the government of the territory northwest of the Ohio River included the prohibition forever of slavery and involuntary servitude, but provided for the surrender of fugitives from whom labor or service was lawfully claimed in any one of the original states. The Ordinance was unanimously adopted July 13, 1787, by the states. The only member of Congress who voted against it, when an act for enforcing it was passed on August 17, 1789, by the first Congress held under the new Constitution, was Yates of New York. The Ordinance provided that as the population increased, the Territory was to be divided into states, not more than

five in number, each of which was then to be admitted to the Union on an equal footing with the original states. Ohio, Indiana, Illinois, Michigan, and Wisconsin were the outcome of this provision.

71 25 **giving**: if this were "gave," what improvement would there be in the grammatical construction of the sentence?

72 29 **the Missouri question**: settled by Congress in 1820. The Missouri Compromise admitted Missouri as a slave state but forever prohibited slavery in the remainder of the Louisiana Purchase north of latitude 36° 30′. This latitude is the southern boundary of Missouri, the northern boundary of North Carolina, and for most of its length the northern boundary of Tennessee.

73 23 **corporal oaths**: oaths ratified by touching a sacred object ("The Concise Oxford Dictionary"). What sacred object is usually touched in the taking of a corporal oath?

74 9 **grounds of expediency**: compare **19** 3.

75 27 **Dred Scott case**: Dred Scott, a negro slave from Missouri, was taken by his master into a part of the United States in which slavery had been forbidden by the Missouri Compromise. Then he was taken back to Missouri and sold. He brought suit against his master for assault and battery, on the ground that by going into free territory he had become a free man. The suit passed from the lower courts on to the Supreme Court, where in 1857 a decision was rendered, denying that Scott was a free man, explaining that negroes were property and not persons, holding that they could not as citizens sue in the courts, and asserting that the Missouri Compromise was unconstitutional. See Andrew C. McLaughlin's "A History of the American Nation," and compare **85** 23.

80 6 **Farewell Address**: the warning against sectional parties may be found on p. 7 of the Standard English Classics edition (Ginn and Company) of Washington's "Farewell Address" and Webster's "First Bunker Hill Oration."

81 7 **"Popular Sovereignty"**: the northern Democrats under the leadership of Senator Douglas held to the doctrine announced in 1847 by Senator Lewis Cass, of Michigan, that Congress ought not to interfere with the domestic concerns of the territories; that the existence of slavery was a question to be dealt with by the people of the territories. See p. 56.

82 33 **Southampton insurrection**: an uprising of slaves took place in 1831 in Southampton County, Virginia, under the leadership of Nat Turner, a negro.

83 15 **slave revolution in Hayti**: Toussaint L'Ouverture, in August, 1791, when a general insurrection of the slaves of Hayti began, saved the lives of his master's family, obtained the chief command of the negroes, and led them to independence through the aid of the French and in opposition to the English. See whether you can find in some encyclopedia what treachery overtook L'Ouverture finally. — 17 **gunpowder plot**: Guy Fawkes and others planned to explode thirty-six barrels of gunpowder in a vault under the House of Lords on November 5, 1605, so as to harm as many Protestant peers as possible. A Catholic peer, Lord Mounteagle, received a warning not to attend Parliament that day, and told of the warning he had received. Fawkes was found with matches and a dark lantern in one of the cellars, was tried, and was executed. Thus, through the desire of one of the conspirators to save Lord Mounteagle, the plot was exposed. — 31 ***pari passu:*** Jefferson meant by this Latin phrase that as fast as negroes should be emancipated or deported their places should be taken by free white laborers. The phrase literally means with equal step or pace.

84 19 **Orsini's attempt on Louis Napoleon**: Felice Orsini, an Italian revolutionist, was the chief of a band of conspirators who tried to assassinate Napoleon III (Charles Louis Napoleon Bonaparte) in January, 1858. Orsini was executed in March of the same year. As he had been a persistent revolutionist, had been confined in prison, and had escaped to England, some people thought they saw a cause to blame England for his attempt on the life of Louis Napoleon. — 25 **Helper's book**: see p. 93.

85 14 **property**: compare **75** 30. The northern Republican contention was that negro slaves were considered by the Constitution as persons "held to labor," and not as property; that they were property only by state law.

88 21 **new sedition law**: Senator Douglas proposed that the committee on the judiciary be instructed to report a bill providing for the suppression of conspiracies, or combinations, in any state or territory with intent to invade, assail, or molest the government, inhabitants, property, or institutions of any state or territory in the Union.

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